European Consumer Consultative Group

Opinion on the *Clean Energy for All Europeans* package

"DISCLAIMER - The European Consumer Consultative Group (ECCG) is a consultative group set up by the European Commission, entrusted to represent the interests of consumers at the Commission and give opinions on issues relating to the conception and implementation of policy and action on the subjects of protecting and informing consumers. The opinion of the ECCG does not reflect the opinion of the Commission nor one of its Services. The ECCG sub-group on Energy is an advisory body on energy and consumer issues to the ECCG."

This opinion is a general assessment of the 'Clean Energy for All Europeans' package published by the European Commission on 30 November 2016 and its overall impact on energy consumers.

This package contains a number of legislative proposals covering energy efficiency, renewable energy, electricity market design, security of electricity supply and governance rules for the Energy Union. This ECCG opinion therefore addresses only some key consumer issues and does not preclude the ECCG to adopt in the future additional opinions on a specific issue addressed under the 'Clean Energy for All Europeans' package.

The ECCG calls on EU and national policy makers to deliver a revised EU energy framework that:

A. **Solves basic consumer problems**. To achieve this:

- Consumers shall be able to compare offers at a glance by finding in one place all relevant information;
- Consumers shall receive a clear and understandable outline of key contractual information;
- Consumers should receive accurate information on their consumption in order to better budget and control their energy use;
- Bills shall include all essential information in an easy and concise way and should be a tool for consumers to discover more advantageous tariffs;
- Comparison tools shall include bundled offers and dynamic price offers;
- Switching shall be easy and should not come with disproportionate costs;
- Consumers rights against unfair marketing practices, especially in case of doorstep selling, must be adequately addressed;
- Consumers should have easy access to speedy, inexpensive and effective complaint handling procedures. Member States should ensure that independent Alternative Dispute Resolution (ADR) schemes are available to promptly address consumer complaints in the energy market, including the heating.. The mandatory participation of traders in out-of-court dispute settlement mechanisms should be ensured.

B. **Encourages consumers to become active without putting their rights at stake**. To achieve this:

- Existing protections should be extended to all new service providers and heating networks; this includes contractual information and billing requirements;
- Consumers should be well informed about what engaging with aggregators entails, before they sign up to their services;
- Consumers should be well-informed about the risks of dynamic contracts;
- National regulators should only "encourage" those consumer groups to participate in demand response for which the potential benefit has been demonstrated in the cost – benefit impact assessment;
- The EU should provide security of investment for existing and prospect self- generators;
- Consumers should have the ultimate power over their data and should be able to make use of them to find better offers without compromising their privacy. This includes the verification of which parties have accessed their data;
- The mandatory dispute resolution and single point of contact requirements established by the Third Energy Package should be maintained and extended to new products and market players such as bundled offers, aggregators and heat networks;
- Appropriate limits for consumers' financial liability should be set to offset the risk that the household does not perform as expected within a demand-side flexibility scheme (e.g. the underperformance of smart appliances);
- Member States should ensure that appliance performance is capable of supporting dynamic price contracts offered to consumers, and that the smart function can be switched off. Consumers should have the choice whether their appliances are smart or not; (including energy meters)
- The development and application of EU network codes should be tailored to the needs and behaviors of residential consumers where appropriate; it must be ensured that the procedure of EU network codes is more transparent and competent administrative authorities have sufficient expertise to issue network codes and ultimately exercise control.
- The standardization process – supported by the EU product design policies – should ensure the integration and interoperability of home technologies.

C. **Acknowledges the extra help required by vulnerable and energy poor consumers and mandates action when necessary[1];**

- Member States should ensure that the social aims of the Energy Efficiency Obligation schemes and other energy efficiency measures are integrated into wider national programme to address (fuel) poverty;

[1] ECCG opinion on consumers and vulnerability, http://ec.europa.eu/consumers/archive/empowerment/docs/eccg_opinion_consumers_vulnerability_022013_en.pdf

- Member States should ensure that independent, not-for-profit advice and support is provided to all consumers (including those in vulnerable situation) so that they can benefit from smart meters;
- Member States freedom to intervene in the retail market should include action against the discrimination of specific consumer groups.
- The Commission, acting together with Eurostat and the Member States should facilitate the cross-border exchange of energy bill saving initiatives.

D. **Ensures consumers enjoy the benefits of energy efficiency**. To achieve this:

- Transport shall be included in the energy savings obligations;
- Consumers should have free access to the technical data that underpin their energy performance certificates and to authorize its provision to third party. This would facilitate consumer engagement in major renovations;
- When designing their energy efficiency policies, Member shall prioritize energy efficiency measures for energy poor households;
- The cost-effectiveness of energy efficiency measures for consumers shall be closely monitored;
- The clean energy package shall link obligations on metering and billing for heating, cooling and hot water to delivering tangible benefits to consumers;
- Introduction of individual (smart) meters for measuring heating consumption should be optional, considering costs and benefits (for ex. in passive houses and low-energy buildings heating costs may be lower than the cost of metering)
- The EU shall aim high when it comes to Ecodesign and Energy Labelling.

E. **Ensures the low carbon energy transition is affordable for consumers.** To achieve this:

- The structure of the European Transmission System Operator (TSO) and Distribution System Operator (DSO) bodies stakeholder consultation process should better facilitate contributions from all market players including non-experts, with stronger oversight from ACER;
- National Regulatory Authorities should ensure accountability of investments so that they deliver value for money for consumers and that cost recovery is in the fairest manner possible;
- Principles should be established within the clean energy package to ensure that national frameworks to incentivize DSOs deliver value to consumers.

1 Introduction

On 25 February 2015, the European Commission launched a Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy.[2] The Energy Union is one of the key priorities of the Juncker Commission as laid down in his political guidelines.

[2] http://eur-lex.europa.eu/legal-content/en/TXT/?uri=COM%3A2015%3A80%3AFIN

'Our vision is of an Energy Union with citizens at its core, where citizens take ownership of the energy transition, benefit from new technologies to reduce their bills, participate actively in the market, and where vulnerable consumers are protected.'

European Commission's Energy Union Package, February 2015

On 30 November 2016, the European Commission launched the 'Clean Energy for All Europeans' package. This package is likely to be the largest overhaul of EU energy policy for the next ten years and beyond. Its three main pillars are: putting energy efficiency first, making the EU a world leader in renewables and providing consumers with a fair deal.

This ECCG opinion contains a general assessment of this package from a consumer perspective. It does not preclude the ECCG to adopt in the future additional opinions on a specific issue or on basis of complementary information.

Overall, the ECCG welcomes Commission's intention to deliver tangible benefits to consumers through this package. However, several proposals must be further developed in order to deliver a truly revamped EU energy policy that addresses long-lasting consumer headaches, is resilient enough to sustain the effects of the decentralization and digitalization of the energy system and puts consumers in the driving seat along this process.

New rules having direct or indirect impact on consumers traverse the whole bundle of legislative proposals. Therefore, rather than addressing each legislative proposal separately, this opinion is structured around five themes that are of key importance for consumers:

1) Fixing the basics: Offers, contracts, bills, comparison tools and switching;

2) Giving all consumers the option to engage and be active in the energy market;

3) Providing extra help for vulnerable and fuel poor consumers;

4) Ensuring consumers can be more energy efficient;

5) Ensuring the low carbon transition is affordable for all consumers.

2 An inclusive, engaging and beneficial EU energy policy for all consumers

Key provisions on consumer protection and empowerment, previously scattered in different legislative texts such as the Energy Efficiency Directive and the Electricity Directive, are now collected under a single chapter of the proposal for the revision of the Electricity Directive. However, issues addressed in this chapter are linked to other legislative proposals such as the proposal for the Renewables Directive, the Electricity Regulation and the Governance Regulation. The ECCG therefore stress the need for consistency while improving these legislative proposals and call on the policy makers to develop a framework that responds to consumers' needs and is ready to withstand the complexity of future energy markets.

2.1 Fix the basics

2.1.1 Design consumer-friendly offers, contracts and bills

While the policy debates at EU level focus on the digitalization and decentralization of the energy sector, still today only four in ten consumers agree that the electricity bills are easy to understand. The most common problems concern price calculation, switching information and fuel mix information[3]. Unclear bills are only one of the hurdles that consumers stumble upon when it comes to the basic forms of their interactions with the energy markets. Many still find energy offers and contracts with their energy suppliers hardly comparable and confusing. Removing such hurdles will have a direct effect on consumers' trust towards the main actors in the energy market, and thus lead to stronger consumer engagement and more dynamic markets.

Clear and comparable offers

Starting with offers, consumers should be able to get at a glance and in one place the basic characteristics and terms that govern each offer such as main features of the offer, the total price and conditions for terminating the contract. This will enable them to compare and identify whether the offer matches their needs.

Fair marketing practices

Consumers are too often exposed to unfair marketing practices by energy companies, especially in the form of aggressive doorstep selling methods. It is crucial that consumer rights in this area are properly enforced. Where appropriate, regulatory gaps towards these practices should be addressed.

Transparent contracts

Consumers often encounter difficulties to access and understand the terms and conditions that govern their energy contracts. This information is often difficult to find, for instance because it is presented in very small font, the language used is not comprehensible and concise or consumers need to look for more information on different web sections of their energy supplier. A simple yet very effective measure that is currently missing from the proposals is providing consumers with a summary of the key terms and conditions in a simple and accessible language together with their energy contract.

Alternative dispute resolution

The Commission proposes the removal of the current special legislation concerning alternative dispute resolution and the inclusion of a mere reference to horizontal legislation. The revised legislation should compel Member States to ensure that consumers have access to an independent body for an inexpensive, prompt and fair out-of-court settlement of disputes arising from their interaction with the energy market. The participation of traders in such dispute resolution mechanisms should be mandatory.

[3] Second consumer market study on the functioning of the retail electricity markets for consumers in the EU, 2017, available at http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=53331

Understandable bills

When it comes to bills, the European Commission's proposal on the revised Electricity Directive introduces minimum requirements about the elements that should be displayed on the bill. This is a step in the right direction but particular attention should be paid to the way the final price is displayed and explained to consumers. For instance, the bill should not only include clear explanation of different price components but it should also display the gross price of a kWh in order to ensure the comparability on price comparison tools.

The package can increase transparency for consumers by ensuring that the bill includes information on future changes that concern the product, the price or a discount. To stimulate consumer engagement with the market, the bill should, once a year, contain information about more advantageous tariffs, based on the consumption patterns of the previous year.

2.1.2 Ensure consumers get a better deal through online comparison tools

The ECCG welcome the Commission's proposal to provide consumers with updated, independent and reliable information about the market through improved comparison tools available online. In addition to the list of basic requirements for comparison tools, policy makers should ensure that these tools encompass two new and potentially game-changing product-types, i.e. bundled offers and dynamic price offers. Consumers should be able to compare such offers which are more complex than traditional offers.

We therefore urge the Council of European Energy Regulators together with the National Regulatory Authorities to develop concepts for how to include the two types of products in comparison tools and to ensure that at least one tool in each market can provide a whole of market overview to allow consumers to verify offers. Regular comparisons of typical consumer profiles across the EU will be welcome to feed into the policy discussions. This is particularly important in countries with a limited competition.

2.1.3 Make switching easier

While switching energy supplier is the heartbeat of a well-functioning energy market, the fear of complex procedures and different types of switching fees have kept switching rates in the electricity market to as few as 10% of consumers in 2015.[4] The need for more awareness raising on the switching process and better communication by energy suppliers is confirmed by recent surveys. Moreover, it is without doubt that in an era where consumers can switch telecom provider within 24h, there is a lot of room for improvement in the energy sector. European energy regulators propose that by 2025, energy consumers should be able to switch within 24h.[5] Therefore, the package should provide that the switching period should be reduced to less than three weeks and progressively to as little as 24h, subject to a cost benefit analysis.

[4] European Commission Consumer Market Scoreboard 2016.
[5] ACER Conclusions Paper 'Energy regulation: A Bridge to 2025'

Beyond procedural constraints, fees are another deterrent for switching. The Commission proposes to end switching-related fees for open-ended contracts, which is a step in the right direction. However, suppliers will still be able to charge fees on the termination of fixed-term contracts. In today's markets, these can be prohibitive. From a consumer perspective, it is crucial to ensure these fees are proportionate to the advantage provided to the consumer such as a promotion on the energy price. Service providers should be shouldered with the responsibility of demonstrating the cost to them to be able to charge termination fees for fixed term contracts.

2.2 Give all consumers the option to be active

In its proposals the European Commission introduces the concept of the active consumer. According to the Commission's proposal *'active customer' means a customer or a group of jointly acting customers who consume, store or sell electricity generated on their premises, including through aggregators, or participate in demand response or energy efficiency schemes provided that these activities do not constitute their primary commercial or professional activity.* Providing tools to consumers to engage is the first step. But to avoid the risk of a two tiered energy society, policy makers should accompany these tools by a set of safeguards and incentives that will make them available to all consumers.

2.2.1 Innovative, flexible electricity services and tariffs should be built on consumer needs

The possibility to opt for a smart, flexible electricity offer is among the main characteristics of an active consumer, according to the Commission's proposal. More specifically, the Commission proposes that in the future all consumers should, on request, be entitled to a dynamic contract. In addition, new service providers that group and manage the electricity consumption of several consumers should be able to enter the market and engage with consumers on an equal footing to suppliers.

The starting point in the Commission's plans to open the market to such services seems to be increasing the flexibility and dynamics in the electricity system. However, this approach fails to acknowledge that consumers cannot be treated as a uniform source of flexibility. Consumer flexibility in electricity usage will depend on several parameters such as their family status, personal habits, financial means and level of awareness. As electricity is a basic service backing numerous everyday life activities, there will always be consumers who cannot afford the consumption flexibility that such services and tariffs entail.

It is now in the hands of EU policy makers to put in place rules for innovative, flexible electricity services and tariffs so that all consumers can control their rising energy bills, not only those with the technological or financial means. Policy makers should ensure that all consumers will have access to affordable electricity and that heat networks and new service providers such as aggregators provide consumers with the same level of protection as suppliers do. Therefore, the package should clearly state that, like suppliers, aggregators are also obliged to comply with contractual specifications. Aggregators should also abide by billing requirements referring to

identification and consumer rights and should provide information about the service provided to consumers e.g. the electricity consumption curtailed.

When it comes to dynamic contracts and their impact on consumers in terms of financial risk, EU regulators should go further than merely introducing the obligation to inform consumers. They should specify how information should be conveyed in order to allow them to make a meaningful choice. It is also imperative for Member States to be able to reserve "toxic" contracts exclusively for the professional market participants, so consumers are not put in untenably risky positions, especially when constraints on price variations are lifted from the markets.

2.2.2 Protect consumers who engage in self-generation

The proposals give a 'renewable self-consumer', who at the same time is also an 'active consumer', the right to self-consume, to store and to sell energy. They also foresee 'market-based remuneration of electricity generated from renewable sources' as the guiding principle.[6]

Due to the risks arising from distorted wholesale markets, it is imperative that policy-makers deliver long term policies and safeguards for fair remuneration. These are essential in gaining consumers' trust and encouraging more consumers to engage into self-generation. Future EU energy rules should therefore ensure priority grid access and priority dispatch without any caps for renewable power plants. At the same time, Member States should remain free to be ambitious in their climate-change fighting efforts and therefore should be free to design support schemes for renewables in a way that suits their local markets and market conditions without overly strict abidance to competition law.

The Commission's proposals on energy communities are a positive step to enabling the society to own the energy transition. This gives the possibility to a group of consumers to found a 'local energy community' able to establish its own community energy networks and to purchase and sell electricity on their own or through aggregators. This provision opens the way to tenants to benefit from electricity self-generation and can therefore boost the social dimension of EU energy policy.

2.2.3. Data protection is key

A key factor in the energy transition is making use of the growing amount of detailed and revealing data and metadata created by smart meters. Greater availability of data should lead to more efficient energy system and should help consumers to better understand their energy consumption. Consumers could also get better control over their energy bills if they receive clear information in user-friendly format. However, increasing generation of data represents also challenges as it can provide a unique insight into the private sphere of households. The consumer, as the owner of the data, must have the right to access and control all the data generated by the smart meter and other smart devices at home. It is thus essential that any party requesting the data has to provide justification why the data is needed and should access data only after the explicit consent of the consumer. Consumers should also be able to

[6] Priority grid access and priority dispatch for renewable power plants are no longer foreseen under the proposed rules , with exemptions for small-scale installations and existing benefactors. However current State Aid Guidelines (2014-2020) only allow few exemptions for small-scale installations below 500 kW of installed capacity.

get hold of a copy of all their data that have been collected by service providers. This should be provided to them in a format which is consumer-friendly and which they can share easily with other service providers or use in comparison websites, in order to be able to switch. This should be free of cost to the consumer. Compliance with the data protection framework and effective enforcement should be on top of the agenda. Cross-sector cooperation of regulators and enforcement authorities in this field is essential and should be reflected in revised legislation under the clean energy package. However, it is essential that consumers must have the right to reject a smart Meter. Member States need to ensure that.

2.3 More dynamic energy markets without sacrificing any consumer

In addition to encouraging consumer engagement with dynamic contracts, the European Commission aims at a complete removal of regulated prices for all consumers. In their current form, the proposals fall short in foreseeing countervailing measures that will sufficiently protect vulnerable and energy poor consumers and will mitigate against the risk of bill shocks for all consumers. Market intervention should be permitted at levels that allow suppliers a reasonable rate of return where there is evidence that markets are failing, particularly for vulnerable consumers[7]. Member States should also safeguard the availability of non-dynamic/Time of use prices.

The fact that EU Member States use different policy approaches in protecting the vulnerable and the energy poor does not mean that there cannot be complementary measures at European level (for instance under the energy efficiency policy). EU policy makers should foster the exchange of best practices between Member States. At the same time, they should entrench in EU legislation the responsibility for Member States to systematically analyse if vulnerable consumers are sufficiently protected, for instance with regard to disconnection of electricity supply or conditions for indebted consumers.

2.4 Make consumers the beneficiaries of energy efficiency policies

An ambitious 2030 energy efficiency target and policy framework that delivers savings to consumers must be an EU priority. It will lift millions of people out of energy poverty and make the homes of all Europeans more comfortable. In the recent European Commission's proposal amending Directive 2012/27/EU on energy efficiency, a 2030 binding energy efficiency target of 30% for the EU is proposed.

However, having in mind the multiple benefits of energy efficiency to health, employment, energy poverty as well as its role in decreasing energy import dependency, the EU energy efficiency target for 2030 should be more ambitious. For instance, the study by the Coalition for energy savings[8], shows that

[7] Proposed Article 5(1) of the revised Electricity Directive limits intervention to the promotion of competition which drives market but does not deliver for all consumer groups. The risk for particular groups could be increased with the move to dynamic pricing.

[8] Study by the Coalition for energy savings: Critical review of the European Commission assessment for the Clean Energy For All Europeans package. Towards a cost benefit analysis.

energy bill savings resulting from energy efficiency targets of up to 40% could exceed the costs of upfront investment.

2.4.1. Close loopholes in energy savings schemes

The transport sector has an important energy savings potential and should not be excluded from the calculation of energy savings obligations. Including transport in the baseline calculation can pull additional efficiency measures in this sector, benefit consumers in form of reduced fuel bills and cost reduction of clean transport solutions.

The intention to strengthen the social dimension of energy efficiency and prioritise under the energy efficiency obligation scheme measures in households affected by energy poverty is welcome. However, co-legislators should ensure the same applies for other alternative policy measures that Member States may put in place to fulfill their savings obligations under the Energy Efficiency Directive, such as financing schemes and instruments or fiscal incentives that lead to the application of energy-efficient technology or techniques and have the effect of reducing end-use energy consumption.

2.4.2 Ensure energy efficiency measures are cost-effective and well monitored

Energy efficiency measures must be cost-effective and properly monitored. Focus should be on measures targeting long-term savings which are cost effective. Transparency and scrutiny of the impact of these schemes on energy savings and costs as well as a regular review of the impact that these schemes have on both the consumers' energy bills and energy consumption is essential.

2.4.3. Metering and billing for heating, cooling and hot water should deliver to consumers

- By introducing new articles in the Energy Efficiency Directive, the European Commission intends to clarify metering and billing requirements for heating, cooling and hot water. Improving consumption information and billing remains of paramount importance for consumers. However, making information available to consumers should not be considered a goal in its own. Due to different situations across Europe, the EU legislation should focus on the outcome for consumers i.e. to become more energy efficient and to better control their energy bills, rather than specifying concrete technical solutions. For instance, there are concerns about the ability of consumers to respond to provided information and adjust their energy consumption as they often live in properties where they have very limited possibilities to improve the energy efficiency of the building or benefit personally from their actions to save energy (for example, in multiple apartment buildings without individual meters).. On the other hand in passive houses and low-energy buildings heating costs may be lower than the cost of metering.

2.4.4. Empower consumers through energy performance certificates

The European Commission's proposal updating the Energy Performance of Buildings Directive includes new provisions aiming to improve the transparency of energy performance certificates. This step is welcome as these certificates can be an important tool for consumers when buying or renting a house. There are, however, several loopholes which need to be addressed by policy makers. In particular, energy performance certificates should be up to date, used more proactively and their validity and accuracy should be improved with an alignment of the calculation methods. This would provide better information to consumers, allowing them to compare and get suitable advice on how to improve their homes.

2.4.5. Keep on building on the great success of EU product policies

The inclusion of the Ecodesign work plan 2016-2019 and other relevant acts reveals much awaited political will to continue with the unfinished work, particularly the revision of existing product groups and starting work on new product groups. Ecodesign and Energy Labelling have been delivering considerable savings to Europeans. Today, an average household is benefiting from a minimum of 330 euro per year net thanks to Ecodesign measures alone. However, the ECCG members regret that the list of new products to be covered under Ecodesign lacks ambition. Beyond energy bills savings, Ecodesign/Energy Labelling can provide 'circular economy' benefits to consumers via improving the overall quality, durability and reparability of consumer products.

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