

# **ENERGY REGULATION AND RETAIL MARKETS**

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## Topics

1. **Retail markets in the European Union**
2. Retail Markets and Third Energy Package (Directives 2009/72/EC and 2009/73/EC)
3. Retail markets in Portugal
4. Challenges for the future

### CURRENT SITUATION

#### ALL CUSTOMERS CAN CHOOSE THEIR SUPPLIER, BUT ....

- Competition at the retail level is often limited
- Incumbents remain dominant
- Switching levels are relatively low
- Choice is limited

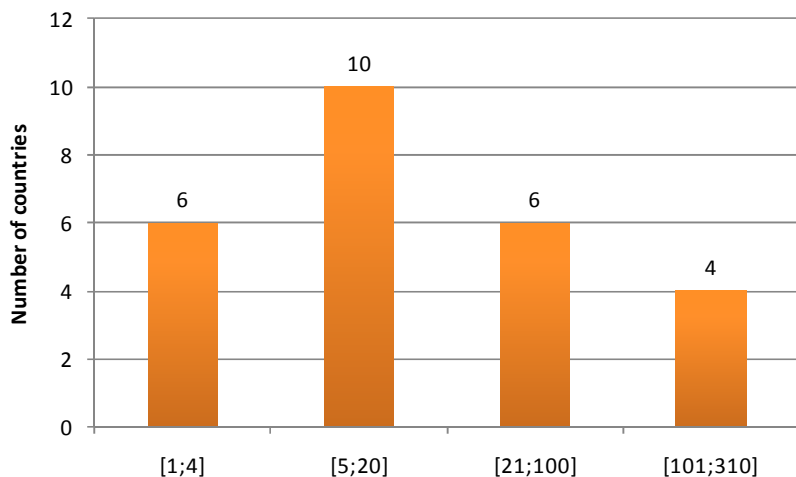
#### POSSIBLE REASONS FOR THAT

- High levels of concentration on retail market
- Integration of generation and supply
- Regulated tariffs

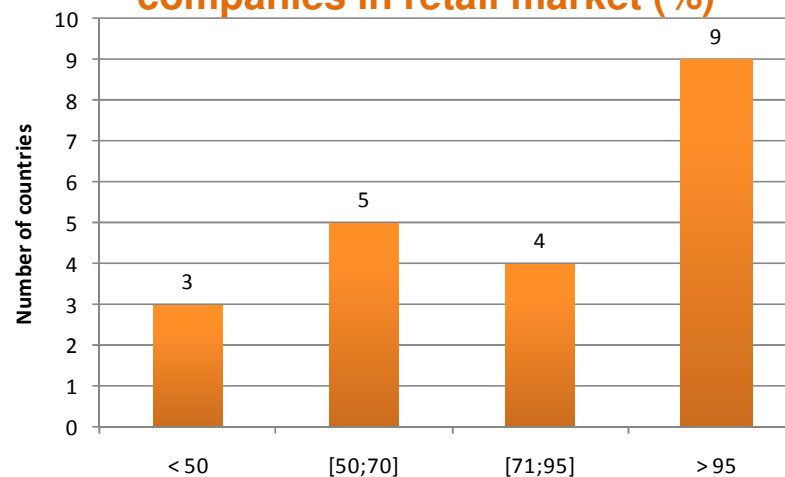
## STRUCTURE OF ELECTRICITY AND GAS RETAIL MARKETS

### Electricity

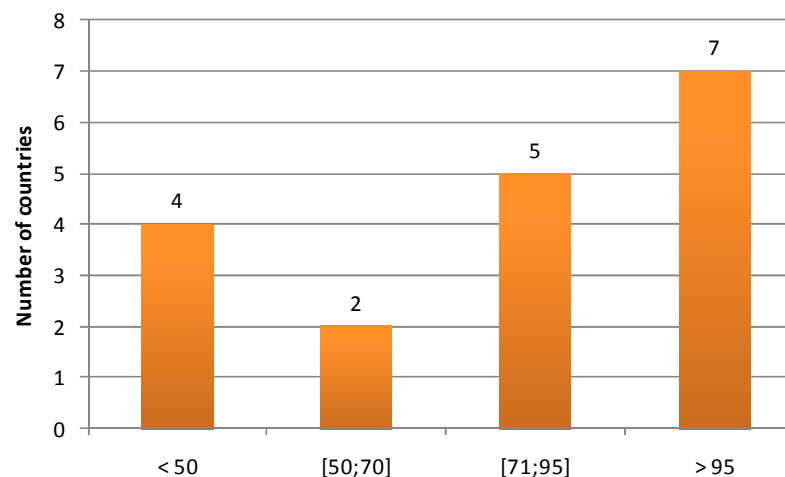
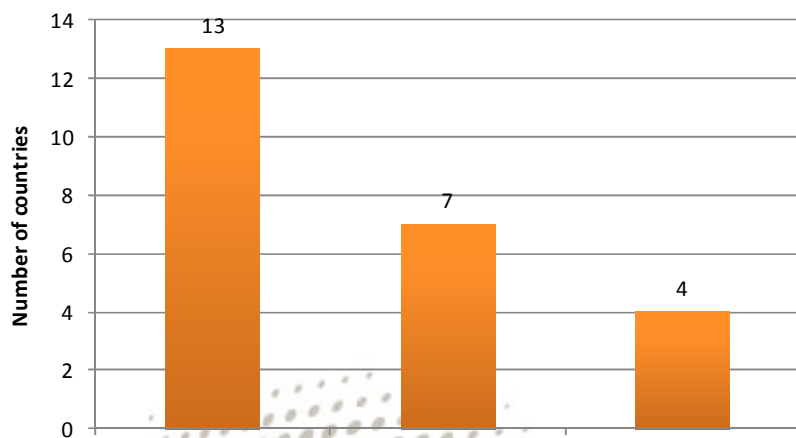
#### Number of nationwide suppliers



#### Market share of three largest companies in retail market (%)



### Gas

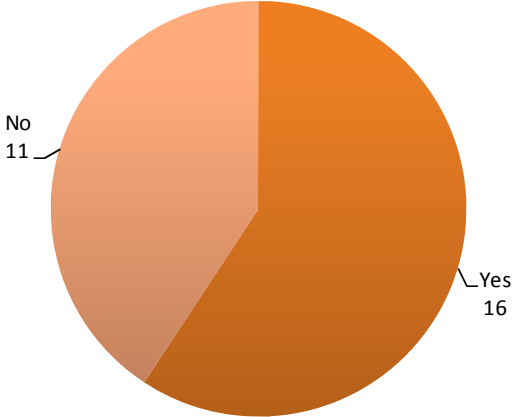


Source: DG TREN [1;4] [5;20] [21;34]

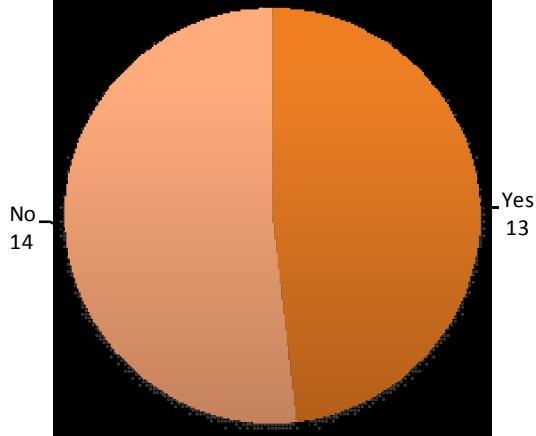
## END-USER PRICE REGULATION

### Electricity

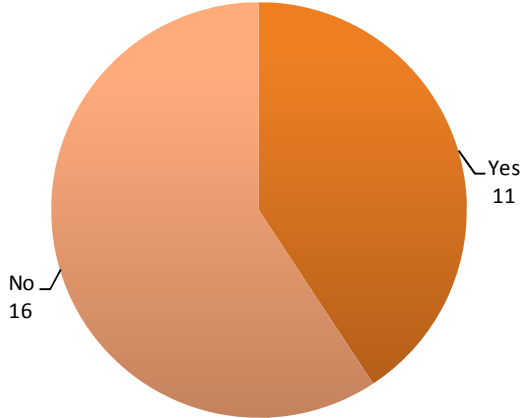
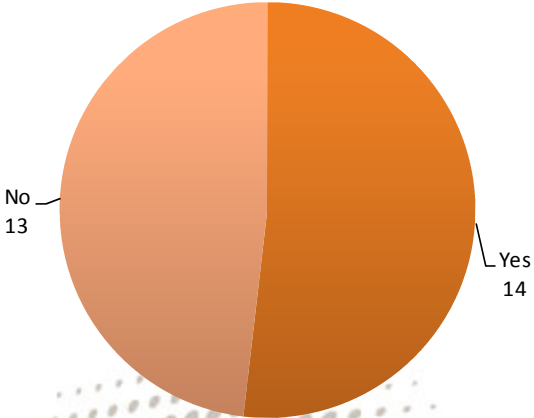
#### Households



#### Non-Households



### Gas



Source: DG TREN

### NEED FOR ACTION

- In 2007, the Commission communication of January 10<sup>th</sup> showed that the present rules and measures do not provide the necessary framework for achieving the objective of a well-functioning internal market.
- More effective measures and rules were identified as necessary.
- New Directives (Third Energy Package) approved in 2009 are an important contribution to make the internal energy market work for all consumers. A number of measures were adopted to complement the existing rules:
  - New protection measures for consumers.
  - More effective national regulators.
  - Separation of production and supply from transmission networks.
  - Facilitate cross-border energy trade (Agency with binding decision powers).
  - Greater transparency.

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## **Consumer protection measures**

“(...) The rules should be defined to facilitate consumers’ understanding of the retail market and the entry of new suppliers (...)” <sup>1</sup>

- The European Energy Consumer Checklist must be effectively communicated to all consumers.
- Customers are entitled to receive all consumption data in an easily understandable harmonized format.
- Consumers must be properly informed of their consumption and costs frequently enough to enable them to regulate their consumption.
- Obligation to define the concept of vulnerable customers and their protection (may refer to energy poverty; prohibition of disconnection at critical times and interaction with other social policy measures).
- Ensure that there are single points of contact to provide consumers with all necessary information:
  - Independent mechanism to deal with their complaints and facilitate out-of-court dispute settlements.
  - Good standard of service and complaint handling by their energy providers.

<sup>1</sup> Interpretative Note on Directives 2009, Retail Markets



## Regulator's role

- Designation of a single regulatory authority at national level (legally distinct and functionally independent body, with budgetary autonomy and adequate human and financial resources)
- National regulatory authorities should be able to:

### Duties

- Fix or approve transmission or distribution tariffs or their methodologies.
- Ensure that there are no cross-subsidies between transmission, distribution, storage and supply activities.
- Ensure compliance of transmission and distribution system operators with their obligations.
- Help to ensure that the consumer protection measures are effective and enforced.
- Cooperate at the European level.

### Powers

- Issue binding decisions on energy undertakings.
- Carry out investigations into the functioning of the markets and impose any necessary and proportionate measures to promote effective competition.
- Require information from energy undertakings relevant for the fulfillment of its tasks.
- Impose effective, proportionate and dissuasive penalties on undertakings that are not complying.
- Have the appropriate rights of investigations and relevant powers of instructions for dispute settlement.

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### ERSE competences

- ERSE is responsible for the regulation of electricity and natural gas sectors.
- ERSE performs its functions independently, in the framework of the law and the guiding principles of the energy policy established by the government.
- ERSE decisions can only be contest in Court.
- The main statutory objectives of ERSE are:
  - To protect the rights and interests of consumers with regard to prices and quality of service, providing information and clarifications to them.
  - To ensure that natural gas and electricity undertakings comply with the public service obligations.
  - To implement the liberalisation of the electricity and natural gas sectors and improve competition.
  - To contribute to the progressive improvement of the technical, economic and environmental conditions in the regulated sectors.
  - To coordinate with the Competition Authority the enforcement of the competition law in the energy sector.

## ERSE competences

ERSE competences are organized in the following areas:

### ➤ Regulation

- Publication and compliance supervision of the following codes: Tariffs, Commercial Relations, Quality of Service, Grids and Infrastructures Access, Grids Operation (electricity) and Infrastructure Operation (natural gas). Approval of tariffs and prices.

**All relevant information and documents are made public by ERSE. Main decisions are preceded by public consultations and hearings and justified in a document which includes answers to all comments and suggestions received.**

### ➤ Inspection

- Regular inspections of the complaint's record, inquiries and audits to the regulated companies, among other measures.

### ➤ Sanctions

- Cannot yet be exercised in a general manner; awaits the publication of the legal framework which will regulate this power.

## ERSE competences

- Advisory
  - Opinion on several matters, such as investment plans or security standards of electricity transmission system and when asked by the government or parliament.
  
- Settlement of disputes
  - Promote voluntary arbitration for the settlement of commercial disputes and can use other alternative resolution mechanisms: recommending a solution or suggesting that parties look for a solution.
  - Ensure the reply to consumer information requests, by phone and in writing (email, letter, etc.) and the treatment of their complaints.

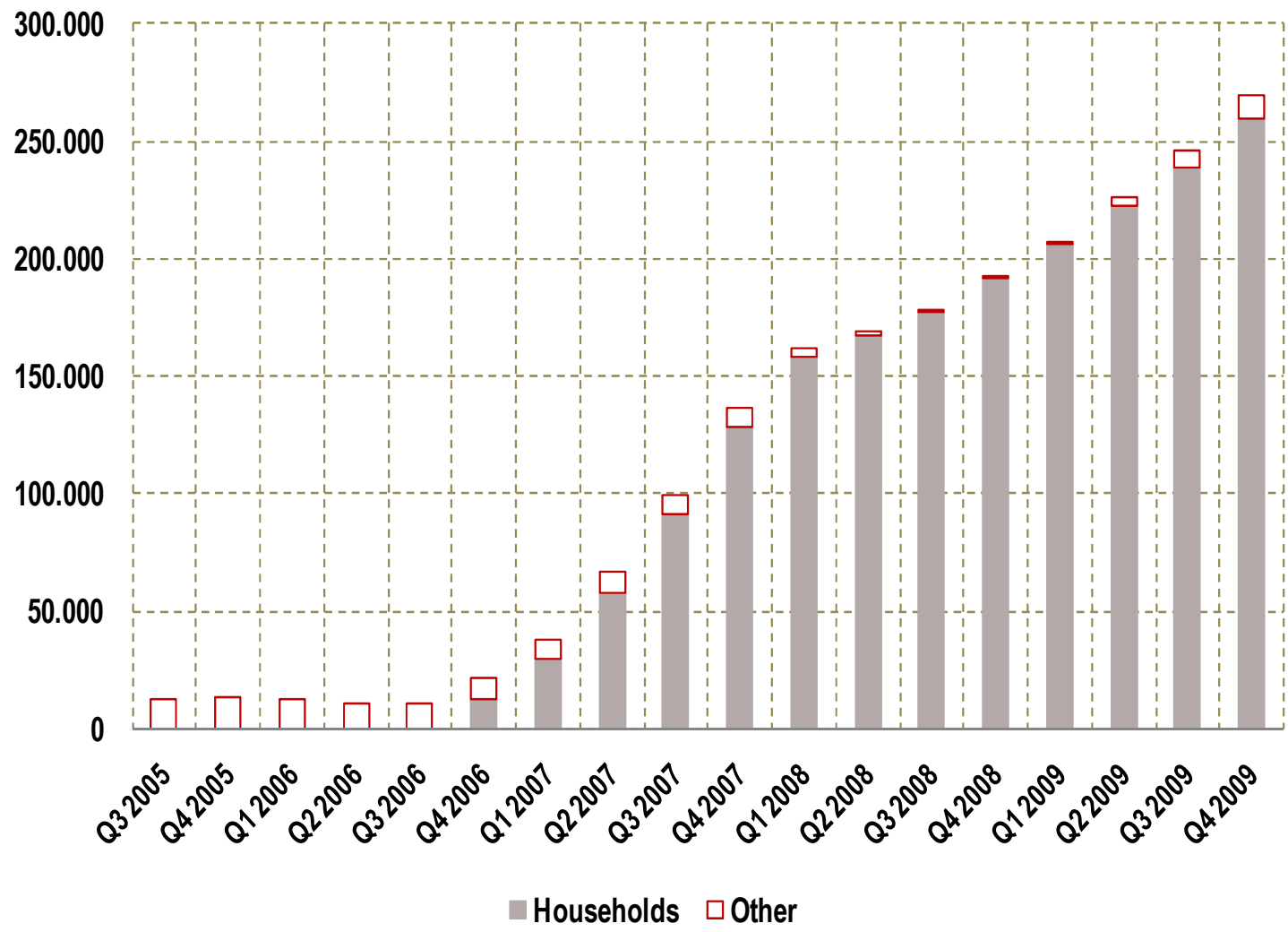
## Consumer protection measures

- Access to electricity and natural gas supply
  - Obligation to provide connection to the electricity network, even in isolated areas.
  - Obligation to provide connection to the natural gas network, but limited to a certain area.
  - Obligation to supply electricity and natural gas by the last resort suppliers.
  - Prior notice to customers before interruption of supply.
  
- Quality of supply
  - Continuity of supply standards.
  - Customer services (commercial quality) standards.
  - Penalty payments in case of non-fulfillment of guaranteed standards.
  - Customer complaints procedures.
  - Consumer information (leaflets, codes of practice, websites).
  - Dispute settlement.
  - Special duties for disabled customers.
  
- Price of energy supply
  - Regulated tariffs.
  - Tariff uniformity – applied to all end customers of the last resort suppliers.
  - Social tariff for low income consumers of electricity.

### Consumer protection measures

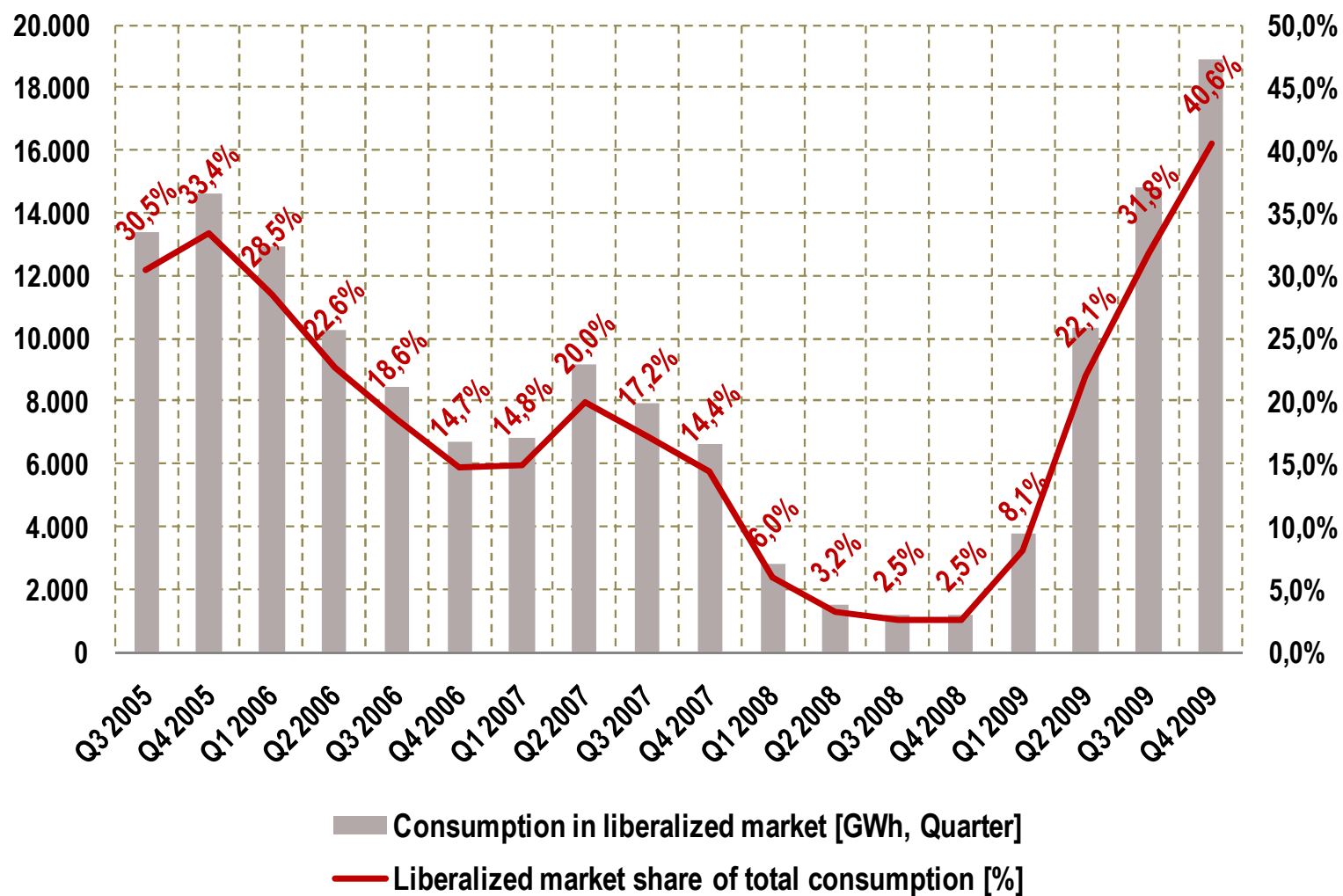
- Access to information
  - Answer to consumer information requests.
  - Publication of information concerning consumer protection (e.g.: the European Energy Consumer Checklist).
  - Publication of information to enable consumers to make informed choices (leaflets and website information, price comparators, etc.).
  - Play a proactive role in consumer education (training programs, specially for entities that work with consumer protection).
  - Joint work/ cooperation with consumer organizations.
  
- Complaints/dispute settlement
  - ERSE has dedicated consumer channels that include telephone, online, written correspondence and person-to-person services.
  - ERSE promotes alternative dispute resolution and apply their procedures.
  - Free of charge system.
  - There are regular meetings with the suppliers and distribution operators to discuss complaints and procedures.

## Customers in liberalized retail market – households and other

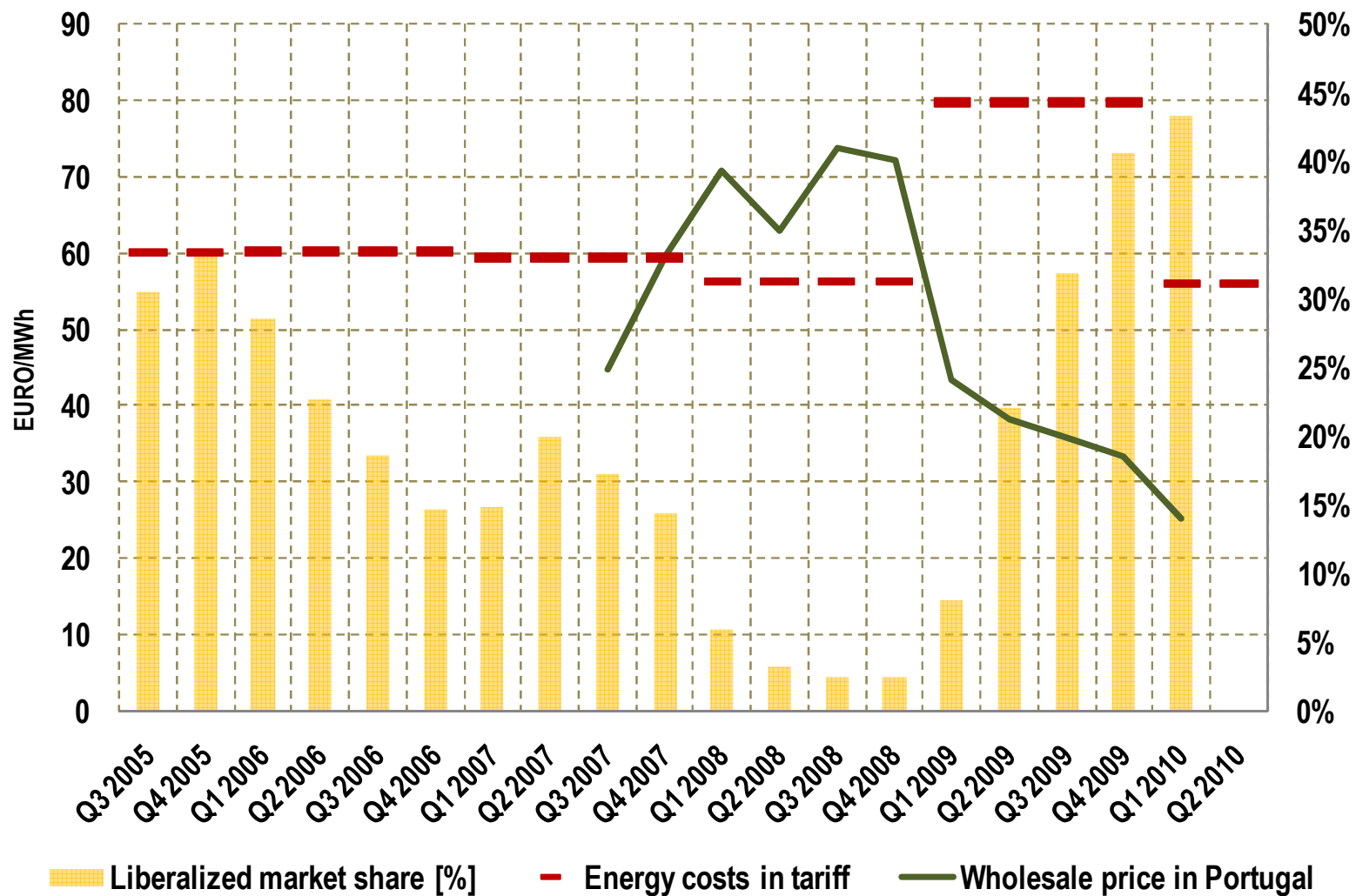




## Consumption in liberalized retail market – Volume and share of total



## Wholesale market price vs. energy costs in regulated tariff



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### Ongoing work

- Further market liberalisation, including elimination of regulated end-user tariffs
- Directives transposition/implementation
- Definition of vulnerable customer concept and protection measures
- Build confidence among consumers
  - Information (single point of contact, Checklist communicated to all consumers)
  - Greater transparency and comparability of offered prices
  - Complaint's handling (simple and inexpensive procedures)
  - Simple, clear and informative bills
- Promote the active participation of customers in the market
  - Smart metering (tariff innovation, accurate billing, new energy services, easier supplier switching, increased energy efficiency)
  - Smart grids (energy efficiency, microgeneration)

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