

CEER Response to European Commission Public Consultation on the Review of Directive 2012/27/EU on Energy Efficiency

29 January 2016

The Council of European Energy Regulators (CEER) welcomes the opportunity to provide its views on European Commission's public consultation on the Review of Directive 2012/27/EU on Energy Efficiency. In its response, CEER will focus primarily on Articles 9-11 of the Energy Efficiency Directive, which pertain to metering, billing information and cost of access to metering and billing information. Being the voice of Europe's national regulators of electricity and gas at EU and international level, CEER will in its answers only address the electricity and gas sectors.

This document has been produced on the basis of established CEER positions and recommendations, which can be found in the 2011 Final Guidelines of Good Practice on Regulatory Aspects of Smart Metering¹, the 2012 Electricity and Gas Retail market design, with a focus on supplier switching and billing², the 2015 CEER Advice on Customer Data Management for Better Retail Market Functioning³, and the 2014 ACER-CEER Market Monitoring Report⁴.

Articles 9-11: Metering, billing information and cost of access to metering and billing information

1 Overall adequacy: Do you think the EED provisions on metering and billing (Articles 9-11) are sufficient to guarantee all consumers easily accessible, sufficiently frequent, detailed and understandable information on their own consumption of energy (electricity, gas, heating, cooling, hot water)?

The energy sector is continuously rated as one of the worst performing for consumers. According to the 2014 DG JUST Market Scoreboard⁵, electricity and gas sectors are one of the least performing markets. The electricity sector ranks 28th (the fourth lowest among the services markets), while the gas sector ranks 22nd, both scoring particularly poorly on comparability of offers, choice of providers, ease of switching and actual switching. Consequently, further work on improving the transparency of energy offers and bills and on ensuring customers' access to their consumption data is required. To this end, it is not entirely clear whether additional or amended provisions in the EED are needed – or whether better outcomes can be achieved through a greater focus on application of the existing rules.

¹ http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Customers/Tab2/E10-RMF-29-05_GGP_SM_8-Feb-2011.pdf

² http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Customers/Tab3/C11-RMF-39-03_GGP-Retail-Market-Design_24-Jan-2012.pdf

³ http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Customers/Tab5/C14-RMF-68-03_Advice%20on%20Customer%20Data%20Management_19032015.pdf

⁴ http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/NATIONAL_REPORTS/National_Reporting_2015/MMR%202014.pdf

⁵ http://ec.europa.eu/consumers/consumer_evidence/consumer_scoreboards/10_edition/docs/consumer_market_brochure_141027_en.pdf

In addition, the 2014 ACER-CEER Market Monitoring Report provides a comprehensive classification of the sources of customers' dissatisfaction with the energy sector. Having analysed 62,728 complaints, the report shows that the main share of consumer complaints (34%) relates to invoicing/billing and debt collection. This holds for both gas and electricity markets. In the electricity sector, consumer complaints due to invoicing/billing and debt collection comprise the largest share of received complaints in 13 MSs. In other MSs consumers show a high level of dissatisfaction about these elements.

Knowledge about customers' complaints facilitates a better understanding of the shortcomings in the retail markets. Billing implies one of the most frequent customer interactions with the energy market. If the process is not well-designed and does not function well, the customer is not able to positively engage in the energy market and consequently is prevented from building trust in the market. Given the emphasis of consumers' criticism on the way they receive information regarding their consumption and metering data, CEER believes that the current provisions are not sufficiently implemented, applied, and/or upheld to guarantee all consumers easily accessible, sufficiently frequent, detailed and understandable information on their energy intake. In addition, the provision of clear and understandable information in offers and bills for consumers is also covered by generic consumer legislation. As such, CEER believes that closer coordination between sector specific regulators and consumer authorities is also needed to achieve the goals of the EED⁶. CEER would therefore encourage the Commission to look at other non-energy related legislation on billing for inspiration.

Various developments in the market, including the roll-out of smart metering, are likely to offer the potential to improve the information provided to consumers and the way in which it is presented. As a way of example, the 2013 Market Monitoring Report⁷ showed that while the number of complaints increased in most MSs, in Sweden consumer complaints reduced radically since the mandatory monthly (instead of annual) meter readings were introduced in July 2009. Monthly readings and actual consumption-based billing have led to more trust in metering and more understandable bills.

If the Commission is minded to propose new rules in this area, we would urge you to consider carefully the level of prescription in relation to the content or format of bills and other customer communications. Anecdotal evidence suggests that consumers already receive a lot of information and that this can lead to less rather than more engagement in certain circumstances. Detailed requirements can also reduce the scope for innovation among suppliers⁸ and could become outdated quickly (e.g. are more people opting for electronic billing). To this end, we feel that minimum standards or slightly higher-level requirements might be more appropriate.

⁶ http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Customers/2013/C13-CEM-65-03_SR%20on%20involvement%20of%20consumer%20organisations%20in%20the%20regulatory%20process.pdf

⁷ http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/acer%20market%20monitoring%20report%202013.pdf

⁸ For example, the EED already requires suppliers to give customers a comparison of their recent consumption with the same period in the previous year. We agree that information on consumption patterns is important for consumers. Nevertheless, it may be that for many consumers there are other ways of presenting this information that is more relevant or engaging for them. This may become more important when a greater volume of consumption data is available from smart metering.

2 Do you think it appropriate that the requirement to provide individual metering and frequent billing (Articles 9(1), 9(3) and 10(1)) is subject to it being technically feasible and/or cost effective?

Individual metering is a basic right of every consumer and should be sought after in order to induce energy saving behaviour on the part of the consumer. Accordingly, in the case of electricity and gas, individual metering should be the rule. Nevertheless, there should be a room for exception whereby Member States, and/or metering operators, and/or suppliers should provide a proper justification as to why they are unwilling to implement individual metering and frequent billing.

Customers should no longer receive estimated energy bills but be billed based on their actual consumption. In its Guidelines of Good Practice on Regulatory Aspects of Smart Metering for Electricity and Gas, CEER highlighted the importance of customers being properly informed – at least once a month – of their actual energy consumption and costs.

CEER admits that there may be some exceptions when individual metering is not technically feasible and/or too costly as mentioned in the Energy Efficiency Directive (e.g. gas only used for cooking).

3 Should such conditions of being technically feasible and/or cost effective be harmonised across the EU?

Article 9(1) states that the individual meters, which are to be provided should be competitively priced. The determination of a competitively priced product depends on local circumstances and as such it would be rather difficult to harmonise the conditions of technical feasibility across the EU. Nevertheless, CEER would suggest to the European Commission to consider proposing a harmonised methodology for assessing and determining competitively priced individual meters at the EU level.

4 How would these conditions of being technically feasible and/or cost effective affect the potential for energy savings and consumer empowerment?

Given the fact that the conditions of technical feasibility and/or cost effectiveness may preclude the provision of individual metering, the lack of an individual meter would affect the potential for energy savings and the level of consumer empowerment.

Individual metering constitutes the basis of consumer empowerment as it provides consumers with basic information on their consumption, which in turn permits consumers to manage better their energy consumption and may trigger changes in customer behaviour in a way that reduces their overall energy intake and results in greater energy savings.

5 Smart meters: Do you think that A) the EED requirements regarding smart metering systems for electricity and natural gas and consumption feedback and B) the common minimum functionalities, for example to provide readings directly to the customer or to update readings frequently, recommended by the Commission⁹ together provide a sufficient level of harmonisation at EU level?

In their Final Guidelines of Good Practice on Regulatory Aspects of Smart Metering, European regulators have called for customers being informed at least once a month about their actual energy consumption and costs, free of charge. Moreover, customers should have access to information on consumption and cost data on demand and should have a choice of different communication channels. Finally, in its Advice on Customer Data Management for Better Retail Market Functioning, CEER proposed the adoption of at least national standardised arrangements regarding the content of customer meter data, the format in which the data is provided to parties and the systems used for the exchange of this data. Standardisation of these arrangements would, in CEER's view, result in significant benefits for consumers, reflected in greater certainty, efficiency and enhanced competition as customers would be more likely to understand the data they receive, make efficient decisions about their consumption and be better-positioned to make decisions about changing tariffs or switching suppliers.

Consequently, there is a consistency and convergence between the work of European Energy Regulators and the European Commission regarding smart meter functionalities, in particular those which benefit consumers. At the same time, however, CEER does not consider these elements sufficient for providing the necessary level of harmonisation across the EU, the issue being that Member States do not apply them.

According to the latest ACER-CEER Market Monitoring Report, merely 14 Member States (i.e. only half) have the minimal technical and other requirements for smart meters in their legislation to ensure benefits to consumers and this does not always concern both electricity and gas sectors. Most of these Member States require that smart meters provide information on actual consumption, make billing based on actual consumption possible and have an interface with the home, for easy access to information for consumers. As such, the lack of minimum technical functionalities and other requirements for smart meters to ensure benefits to consumers is apparent in many Member States.

If no, do you think the common minimum functionalities should be the basis for further harmonisation?

Yes. CEER believes that functionalities are crucial for the sound deployment of smart metering systems and for guaranteeing a minimum level of service to customers and those that generate and consume electricity. Customers should be able to expect certain services from smart metering systems and the minimum functionalities have been identified as essential for ensuring that these services are accomplished.

With regard to the common minimum functionalities, CEER has developed the following recommendations, which define the level of service a customer should be able to expect from a smart metering system:

- The customer should be properly informed at least once a month of actual electricity consumption and costs, free of charge
- On demand, the customer should be able to access information on his/her up to date consumption and injection data and costs

⁹ C(2012)1342

- Given the greater metering data accuracy, it should become easier to switch supplier, move or change the contract
- Customers should no longer receive estimated energy bills. Bills should reflect actual consumption.
- The supplier should be able to make offers that better reflect actual consumption/injection divided into different time periods. Smart metering systems should be capable of recording consumption on a configurable time bases (at least hourly).
- When the customer wishes to reduce or increase power capacity as well as to activate or deactivate supply, he/she should be able to contact the relevant market actor who will perform this service remotely
- All customers should be equipped with a metering device capable of measuring consumption and injection
- If a customer wishes to do so, he/she can receive an alert in case of non-notified interruption or a case of exceptional energy consumption
- Meters should be equipped with or connected to an open gateway and the software is to be upgraded remotely

Finally, all customers should benefit from smart metering and MSs should avoid discriminatory behaviour by the party responsible for the roll-out.

6 What obstacles have national authorities/actors faced in introducing on a large scale individual meters that accurately reflect the final customer's actual energy consumption? Do you have any good experiences to share on how to overcome these obstacles?

CEER highlights the need for a clear regulatory framework in order to ensure a smooth roll out of smart meters and introduction of individual meters on a large scale to the benefit of consumers and energy efficiency. Anecdotal cases from MSs that have implemented smart meters first, i.e. Italy and Sweden, reveal that a clear regulatory framework is vital for guaranteeing that smart meters are rolled out with minimum functionality, i.e. the customer should be properly informed at least once a month of actual electricity consumption and costs, free of charge.

Findings from the roll out of smart meters in Finland show that all smart meters should be able to record hourly consumption, which in turn would enable introduction of hourly priced products. Subsequently, the challenge is to ignite end consumers' interest in their energy cost and their own role in influencing it.

Annex I – Articles 9-11: Metering, billing information and cost of access to metering and billing information

Article 9

Metering

1. Member States shall ensure that, in so far as it is technically possible, financially reasonable and proportionate in relation to the potential energy savings, final customers for electricity, natural gas, district heating, district cooling and domestic hot water are provided with competitively priced individual meters that accurately reflect the final customer's actual energy consumption and that provide information on actual time of use.

Such a competitively priced individual meter shall always be provided when:

(a) an existing meter is replaced, unless this is technically impossible or not cost-effective in relation to the estimated potential savings in the long term;

(b) a new connection is made in a new building or a building undergoes major renovations, as set out in Directive 2010/31/EU.

2. Where, and to the extent that, Member States implement intelligent metering systems and roll out smart meters for natural gas and/or electricity in accordance with Directives 2009/72/EC and 2009/73/EC:

(a) they shall ensure that the metering systems provide to final customers information on actual time of use and that the objectives of energy efficiency and benefits for final customers are fully taken into account when establishing the minimum functionalities of the meters and the obligations imposed on market participants;

(b) they shall ensure the security of the smart meters and data communication, and the privacy of final customers, in compliance with relevant Union data protection and privacy legislation;

(c) in the case of electricity and at the request of the final customer, they shall require meter operators to ensure that the meter or meters can account for electricity put into the grid from the final customer's premises;

(d) they shall ensure that if final customers request it, metering data on their electricity input and off-take is made available to them or to a third party acting on behalf of the final customer in an easily understandable format that they can use to compare deals on a like-for-like basis;

(e) they shall require that appropriate advice and information be given to customers at the time of installation of smart meters, in particular about their full potential with regard to meter reading management and the monitoring of energy consumption.

3. Where heating and cooling or hot water are supplied to a building from a district heating network or from a central source servicing multiple buildings, a heat or hot water meter shall be installed at the heating exchanger or point of delivery.

In multi-apartment and multi-purpose buildings with a central heating/cooling source or supplied from a district heating network or from a central source serving multiple buildings, individual consumption meters shall also be installed by 31 December 2016 to measure the consumption of heat or cooling or hot water for each unit where technically feasible and cost-efficient. Where the use of individual meters is not technically feasible or not cost-efficient, to measure heating, individual heat cost allocators shall be used for measuring heat consumption at each radiator, unless it is shown by the Member State in question that the installation of such heat cost allocators would not be cost-efficient. In those cases, alternative cost-efficient methods of heat consumption measurement may be considered.

Where multi-apartment buildings are supplied from district heating or cooling, or where own common heating or cooling systems for such buildings are prevalent, Member States may introduce transparent rules on the allocation of the cost of thermal or hot water consumption in such buildings to ensure transparency and accuracy of accounting for individual consumption. Where appropriate, such rules shall include guidelines on the way to allocate costs for heat and/or hot water that is used as follows:

- (a) hot water for domestic needs;
- (b) heat radiated from the building installation and for the purpose of heating the common areas (where staircases and corridors are equipped with radiators);
- (c) for the purpose of heating apartments.

Article 10

Billing information

1. Where final customers do not have smart meters as referred to in Directives 2009/72/EC and 2009/73/EC, Member States shall ensure, by 31 December 2014, that billing information is accurate and based on actual consumption, in accordance with point 1.1 of Annex VII, for all the sectors covered by this Directive, including energy distributors, distribution system operators and retail energy sales companies, where this is technically possible and economically justified.

This obligation may be fulfilled by a system of regular self-reading by the final customers whereby they communicate readings from their meter to the energy supplier. Only when the final customer has not provided a meter reading for a given billing interval shall billing be based on estimated consumption or a flat rate.

2. Meters installed in accordance with Directives 2009/72/EC and 2009/73/EC shall enable accurate billing information based on actual consumption. Member States shall ensure that final customers have the possibility of easy access to complementary information on historical consumption allowing detailed self-checks.

Complementary information on historical consumption shall include:

- (a) cumulative data for at least the three previous years or the period since the start of the supply contract if this is shorter. The data shall correspond to the intervals for which frequent billing information has been produced; and
 - (b) detailed data according to the time of use for any day, week, month and year. These data shall be made available to the final customer via the internet or the meter interface for the period of at least the previous 24 months or the period since the start of the supply contract if this is shorter.
3. Independently of whether smart meters have been installed or not, Member States:
- (a) shall require that, to the extent that information on the energy billing and historical consumption of final customers is available, it be made available, at the request of the final customer, to an energy service provider designated by the final customer;
 - (b) shall ensure that final customers are offered the option of electronic billing information and bills and that they receive, on request, a clear and understandable explanation of how their bill was derived, especially where bills are not based on actual consumption;
 - (c) shall ensure that appropriate information is made available with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Annex VII;
 - (d) may lay down that, at the request of the final customer, the information contained in these bills shall not be considered to constitute a request for payment. In such cases, Member States shall ensure that suppliers of energy sources offer flexible arrangements for actual payments;

(e) shall require that information and estimates for energy costs are provided to consumers on demand in a timely manner and in an easily understandable format enabling consumers to compare deals on a like-for-like basis.

Article 11

Cost of access to metering and billing information

1. Member States shall ensure that final customers receive all their bills and billing information for energy consumption free of charge and that final customers also have access to their consumption data in an appropriate way and free of charge.

2. Notwithstanding paragraph 1, the distribution of costs of billing information for the individual consumption of heating and cooling in multi-apartment and multi-purpose buildings pursuant to Article 9(3) shall be carried out on a non-profit basis. Costs resulting from the assignment of this task to a third party, such as a service provider or the local energy supplier, covering the measuring, allocation and accounting for actual individual consumption in such buildings, may be passed onto the final customers to the extent that such costs are reasonable.

Annex II – Annex VII of the Energy Efficiency Directive

Minimum requirements for billing and billing information based on actual consumption

1. Minimum requirements for billing

1.1. Billing based on actual consumption

In order to enable final customers to regulate their own energy consumption, billing should take place on the basis of actual consumption at least once a year, and billing information should be made available at least quarterly, on request or where the consumers have opted to receive electronic billing or else twice yearly. Gas used only for cooking purposes may be exempted from this requirement.

1.2. Minimum information contained in the bill

Member States shall ensure that, where appropriate, the following information is made available to final customers in clear and understandable terms in or with their bills, contracts, transactions, and receipts at distribution stations:

- (a) current actual prices and actual consumption of energy;
- (b) comparisons of the final customer's current energy consumption with consumption for the same period in the previous year, preferably in graphic form;
- (c) contact information for final customers' organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, wherever possible and useful, Member States shall ensure that comparisons with an average normalised or benchmarked final customer in the same user category are made available to final customers in clear and understandable terms, in, with or signposted to within, their bills, contracts, transactions, and receipts at distribution stations.

1.3. Advice on energy efficiency accompanying bills and other feedback to final customers

When sending contracts and contract changes, and in the bills customers receive or through websites addressing individual customers, energy distributors, distribution system operators and retail energy sales companies shall inform their customers in a clear and understandable manner of contact information for independent consumer advice centres, energy agencies or similar institutions, including their internet addresses, where they can obtain advice on available energy efficiency measures, benchmark profiles for their energy consumption and technical specifications of energy using appliances that can serve to reduce the consumption of these appliances.