

CEER Key Positions on the “New Deal for Consumers”, on Proposed Directive on Better Enforcement and Modernisation of EU Consumer Protection Rules

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The Council of European Energy Regulators (CEER), the association representing Europe’s energy regulators¹, welcomes the European Commission’s proposals on the modernisation and better enforcement of general consumer law in its legislative package on a “New Deal for Consumers”².

CEER believes that this legislative package makes important revisions to the general framework for consumer rights across all sectors. We note its relevance for reinforcing consumer protection with respect to energy markets, further to the energy sector-specific EU legislation already in place and proposed in the Clean Energy package³. However, CEER is of the view that the New Deal could benefit from some further clarifications on bundled products, and we also highlight other issues of relevance to energy consumers, as below.

Bundled products

1. CEER supports better transparency and protection for all consumers, including those in online marketplaces and those who chose to buy so-called bundled products (also known as combined, optional or additional services⁴). With bundled products within and across sectors becoming more popular, energy regulators believe that the Directive should explicitly extend the same consumer rights and protections to consumers who chose bundled products (just like it has made clear that it has extended the protection to consumers of digital services).
2. In particular, the recital and text should explicitly clarify that consumers who buy bundled products/services have the same right to: (1) clarity on liability where there are multiple parties or contracts involved in the bundled product; (2) pre-contractual information; (3) price and bill transparency for the different elements of the bundle; (4) the same information about contract conditions and payment conditions as for those consumers who buy individual (or unbundled) products; and (5) no disconnection of an essential services such as electricity in a case where a consumer fails to pay for another (non-essential) service/goods in the bundle.

Online marketplace requirements

3. CEER welcomes the stricter information requirements for contracts concluded on online marketplaces (Article 6a of the Consumer Rights Directive). In the energy sector, price comparison tools increasingly allow consumers to contract a new supplier online, reinforcing the importance of such protections. Furthermore, the requirements in Article 6a can work alongside the reinforced requirements for comparison tools in the Directive on common rules for the internal market in electricity.

¹ CEER is the voice of 36 national energy regulators across Europe - see www.ceer.eu

² See http://europa.eu/rapid/press-release_IP-18-3041_en.htm

³ See <https://ec.europa.eu/energy/en/topics/energy-strategy-and-energy-union/clean-energy-all-europeans>

⁴ Businesses are marketing packages of combined products and/or services within a sector or across several sectors. An example of products bundled across sectors is energy and insurance. See [CEER draft Guide on Bundled Products](#) which (in the current absence of clarification on bundled products in general EU consumer law) seeks to make life simpler for consumers and to help a consistent framework for the treatment of bundled products in all EU Member States to emerge, by setting out principles that can be adopted by companies and National Regulatory Authorities to better protect consumers who choose bundled products.

4. Consumers increasingly use web comparison tools and digital applications. The online marketplace is playing a bigger role in the energy and other sectors. Overall, the revisions strengthen consumer rights, including in a more digitalised society and across borders. CEER welcomes the proposed clarification in the Unfair Commercial Practice Directive that online platforms must indicate search results that contain “paid placements” (No. 11 Annex I). However, CEER calls for the liability of online platforms to consumers to be further strengthened for misleading information and guarantees made by the platform operator.

Payment with data

5. CEER supports the proposal in the Directive (Article 2 (18)) to recognise the contract rights for consumers who pay with personal data. We foresee that the national roll-out of smart electricity and gas meters has/will generate more detailed metering data connected to the consumption of consumers. Generally, energy companies only collect smart meter data necessary to bill consumers for their energy consumption. However, as the energy market becomes more digitalised, there is an expectation that third parties will offer digitalised services to consumers in exchange for consumption data. We support that consumers keep their rights if they pay with data and that they understand the importance of protecting such personal information.

Consumers’ 14-day right of withdrawal period

6. The proposed 14-day right of contract withdrawal period for consumers needs to be interpreted slightly differently in terms of electricity and gas. Energy, unlike other products, cannot be returned. Hence if the customer is supplied energy during the 14-day cooling off period, the customer must pay in full for the energy consumed, as already foreseen and further clarified in Article 8 of Directive 2005/83.
7. Energy supplier switching should, by 2025, typically be executed within 24 hours as per one of CEER’s Clean Energy advocacy positions. Importantly, energy regulators see no contradiction between the 14-day cooling off period and the goal of a 24-hour technical switching time. As the service of providing electricity is performed continually, the consumer would have to pay for the energy consumed during the contract period, up until the time of using the right to withdraw. There is no need for a derogation for electricity market participants from this provision. CEER would see a benefit in clarifying that, in cases involving a switch from one supplier to another, that a withdrawal does not leave the consumer without energy supply. For example, the consumer should be able to return to the previous supplier or could be automatically reassigned to a supplier of last resort.
