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**Council of European
Energy Regulators**



Fostering energy markets, empowering **consumers**.

CEER Advice on How to Involve and Engage Consumer Organisations in the Regulatory Process

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INFORMATION PAGE

Abstract

This Advice (C14-CEM-74-07) examines how best to involve and engage consumer organisations in the regulatory process by drawing up a number of recommendations which should result in a more structured approach to consumer organisations and in a greater mutual understanding of markets and consumer concerns through the availability of more information and dialogue channels. By proposing concrete measures in the fields of information exchange, capacity building and policy development/design, CEER aims to facilitate a more organised relationship between NRAs and consumer organisations. This will likely enhance their respective performance and thereby create more favourable market conditions as well as better empowerment and protection services for customers in the long run.

Target Audience

European Commission, energy suppliers, traders, gas/electricity customers, gas/electricity industry, consumer representative groups, network operators, Member States, academics and other interested parties.

Keywords

Retail markets; Consumer rights; Customer protection & empowerment; National regulatory authorities (NRAs).

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Related Documents

CEER documents

- [CEER Evaluation of Comments on Public Consultation “How to involve and engage consumer organisations in the regulatory process”](#), CEER [March 2015], Ref. C14-CEM-74-07a
- [“CEER Workshop on how to make consumer organisations’ involvement in the regulatory process most effective”](#), CEER [February 2014]
- [“Final CEER 2014 Work Programme”](#), CEER [January 2014], Ref. C13-WPDC-23-05
- [“CEER Status Review on the involvement of consumer organisations in the regulatory process as of 1st January 2013”](#), CEER [October 2013], Ref. C13-CEM-65-03
- [“Benchmarking Report on the roles and responsibilities of NRAs in customer empowerment and protection as of 1 January 2011”](#), CEER [October 2011], Ref. C11-CEM-46-03
- [“A 2020 Vision for Europe’s energy customers - Joint Statement”](#), CEER and BEUC [November 2012, updated June 2014]
- [“GGP on Customer Complaint Handling, Reporting and Classification”](#), CEER [June 2010], Ref. E10-CEM-33-05

Other documents

- [“EU Consumers’ 2020 Vision”](#), BEUC [May 2012]
- [“Conclusions of the 6th Meeting of the Citizens’ Energy Forum”](#), European Commission [December 2013]



Table of Contents

EXECUTIVE SUMMARY	5
1 INTRODUCTION.....	8
1.1 Background and Purpose of the Advice.....	8
1.2 Definitions	8
1.3 Content	9
2 INFORMATION EXCHANGE	10
3 CAPACITY BUILDING.....	14
4 REGULATORY POLICY DEVELOPMENT AND DESIGN	21
5 IMPROVING COMPLIANCE	24
6 CONCLUSIONS.....	26
ANNEX 1 – CEER	28
ANNEX 2 – LIST OF ABBREVIATIONS	29



EXECUTIVE SUMMARY

This CEER Advice presents 16 recommendations on how to best involve and engage consumer organisations in the regulatory process. While NRAs collaborate with a wide range of stakeholders, this paper is specifically dedicated to examining the relation between NRAs and consumer organisations given that collaboration with such organisations remains less developed in many countries as compared to relations with other market participants. The views expressed in this paper are solely those of the Council of European Energy Regulators.

CEER began examining the relationship between National Regulatory Authorities (NRAs) and consumer organisations in 2013 and came to the conclusion that this relationship deserves a higher degree of attention given the potential synergies and benefits of mutual understanding and information exchange as part of the regulators' broader consultation and dialogue process. The recommendations presented in this paper were developed with a view to offering a perspective on how these synergies can be successfully exploited to the mutual benefit of regulators and consumer organisations and the final consumer whilst respecting the different mandates, roles and responsibilities of each party.

In overseeing energy markets and promoting the best interests of society, regulators are called upon to consult a wide range of stakeholders and on occasion to balance differing perspectives. The regulatory process involves working with a broad range of actors with varying interests, which can often lead to technical questions and corresponding policy measures. Regulators see consumers and their representative organisations as a central part of their responsibilities. We hope that this advice will serve to reinforce forms of cooperation and dialogue between energy regulators and consumer organisations and to lend a voice to consumers in these often complex areas.

The term "consumer organisation" is used in a generic sense in this Advice. Given the multitude of different arrangements in the Member States, it does not refer to a specific category or type of consumer organisation. It rather applies to those organisations which NRAs *chose to or are required to cooperate with* in their national contexts. The term "consumer organisation" in this Advice does not include public ombudsmen and government agencies dealing with consumer protection.

This paper is structured around four thematic areas, each of which consists of a number of specific recommendations. These four thematic areas are:

- Information Exchange
- Capacity Building
- Policy Development and Design
- Improving Compliance

Regarding **information exchange**, CEER considers that in their interactions with consumer organisations, NRAs should use clear, simple and easy to understand information, i.e. avoiding complex language and exaggerated levels of technical detail. NRAs should also make information more accessible through proactive notifications of major decisions/publications. In the spirit of collaboration, the NRA should encourage consumer organisations to act likewise. Shared information could furthermore, and as a general rule, be accompanied by summary notes explaining core elements of these documents and the



expected effects on consumers. While informal collaboration between NRAs and consumer organisations is already quite effective¹, the present Advice recommends further improvements to communication channels by identifying contact persons in relevant areas of expertise. In addition, the Advice suggests that NRAs and consumer organisations establish a clear framework for information sharing by specifying how and which data could be exchanged between the parties. This commitment may be reviewed/ updated regularly.

In the area of **capacity building**, CEER recommends using dedicated capacity building measures as a tool to strengthen the knowledge base and performance of NRAs and consumer organisations. The term “capacity building” is used, therefore, to cover the different activities that contribute to the build-up of knowledge within NRAs and consumer organisations, e.g. through training, workshops, e-learning facilities and other forms. As both sides possess valuable expertise, capacity building should ideally be reciprocal. Bearing in mind that resources on both sides are limited, CEER suggests capacity building should be provided to consumer organisations free of charge wherever possible as a matter of principle (i.e. without tuition or other extra fees). Consumer organisations could also share their expertise with the regulatory community along the same principles. Where there are expenses, donors could be considered or other incentives could be offered to the beneficiaries to add value (e.g. course certificates, etc.). Best practice approaches to capacity building in other sectors could be considered in addition to these suggestions made by CEER.

Regarding collaboration in the field of **policy development and design**, experience shows that this is a relatively new and not yet well-explored field of cooperation. Regulators are charged with balancing a range of interests in the energy market, whilst working in the public interest, in order to achieve better functioning of and conditions for markets and consumers. In carrying out their duties and developing corresponding policies and measures, regulators engage with the various market actors, including consumer representatives. Enhancing the involvement of consumer representatives in the regulatory process overall can assist regulators, and ultimately consumers themselves, in carrying out their responsibilities in what is often considered a complex and technical sector. However, the ultimate decision making remains the sole responsibility of the NRA.

As a first step, CEER proposes that NRAs provide an overview of envisaged future regulatory framework developments and encourage consumer organisations to take part in this process. We believe this lays the appropriate ground for identifying key areas of collaboration. CEER further advocates that public consultations at national level should play a central role in the regulatory policy development process with a view to allowing all interested stakeholders to take part. Where appropriate, input from consumer organisations may already be called upon in the early preparation phase of such consultation processes. CEER also believes that a high level of end-to-end transparency throughout the policy development process is needed in order for all involved parties to understand how their input was considered and to create wider acceptance of the policy measures adopted. Finally, ACER’s “Energy Regulation: A Bridge to 2025 Conclusions Paper” suggests the establishment of stakeholder panels (including representatives from consumer organisations) to provide all stakeholders with the opportunity to share their views at a strategic level on future market developments.

¹ CEER’s 2013 Status Review on the involvement of consumer organisations in the regulatory process as of 1st January 2013 revealed a variety of cooperation practices in many countries.



In terms of **improving compliance** with energy market rules and regulations, CEER encourages closer collaboration with consumer organisations in a variety of fields. It is suggested, inter alia, that consumer organisations (and other market participants) could support regulators in detecting potentially non-compliant behaviour in the market and thereby help provide stronger evidence-based regulation. At the same time, involving consumer organisations and other market participants in this process, where appropriate, is believed to create more legitimacy and acceptance of NRAs' decisions. The Advice further proposes that NRAs and consumer organisations use appropriate means for reporting on regulatory decisions in order to enhance the accountability of regulators.

These recommendations can be viewed within the context of CEER's objective to foster energy markets and empower energy consumers. Indeed, as part of CEER's commitment to consumer issues, we took the initiative to build, together with BEUC², a 2020 Vision for Europe's Energy Customers. This Vision can be characterised by the RASP principles governing the relationship between the energy sector and customers: Reliability, Affordability, Simplicity, Protection and empowerment. Promoting a structured dialogue and exchange between regulators and consumer representatives is a natural corollary of these principles and seeks to improve the regulatory framework by supporting the involvement of consumer organisations in what is often considered a complex and technical sector. The recommendations in this Advice are believed to have an impact under each of the RASP principles.

The present recommendations lead to the overall conclusion that the effective involvement of consumer organisations in the regulatory process has the potential to deliver stronger results in favour of market functioning and for customer empowerment and protection.

CEER is pleased that BEUC, the EU consumer organisation, endorses this CEER advice and shares in the goals and objectives set out in the report. We look forward to working with BEUC and its members to strengthen the voice of consumer representatives in the energy regulatory process.

² BEUC is the Bureau Européen des Unions de Consommateurs, the European Consumer Organisation



1 Introduction

1.1 Background and Purpose of the Advice

In 2013, CEER published a Status Review on the involvement of consumer organisations in the regulatory process³. This paper provided thorough insights into the working relations between national regulatory authorities (NRAs) and consumer organisations. The overall aim of this review was to investigate if, how, and on which particular issues, NRAs and consumer organisations collaborate.

Based on the findings of the 2013 Status Review, CEER met with stakeholders on 20 February 2014 in a public workshop in order to explore how the relationship between NRAs and consumer organisations can be made more effective. A public consultation⁴ in June 2014 provided stakeholders an additional opportunity to comment on CEER's Advice. The input received from the interactive workshop and the public consultation was used to develop a number of concrete recommendations with a view to an enhanced involvement of consumer organisations in the regulatory process.

The recommendations in this CEER Advice are designed to stimulate NRAs and consumer organisations to exploit effectively their synergies. Overall, the proposals are believed to have a positive impact on the quality of work produced by both bodies, thus, allowing for more effective institutions and better results in relation to consumer protection and empowerment.

CEER's dedication to this area of work was also confirmed in the conclusions of the last Citizen's Energy Forum in London: "*The Forum welcomes forthcoming advice from regulators (CEER) on ways to involve and engage consumer representatives in the regulatory process at the national level and invites regulators to prepare a discussion on these issues for the next Forum*"; and in the recent ACER "Energy Regulation: A Bridge to 2025 Conclusions Paper" which places substantial focus on the improvement of the involvement of stakeholders, including consumer representatives, through the establishment of stakeholder panels.

1.2 Definitions

Customer/Consumer

In this Advice, the terms "customer" and "consumer" are used interchangeably. Customer/consumer refers to household customers or small businesses. Large energy end-users are not covered by this paper.

³ In collaboration with the European Consumers' Organisation, BEUC. The analysis was based on responses gathered from both NRAs and BEUC members.

⁴ 14 stakeholders responded to the public consultation, see also [CEER Evaluation of Comments](#)



Consumer Organisation

The term “consumer organisation” is used in a generic sense in this Advice. Given the multitude of different arrangements in the Member States, it does not refer to a specific category or type of consumer organisation. It rather applies to those organisations which NRAs chose or are required to cooperate with in their national contexts. The term “consumer organisation” in this Advice does not include public ombudsmen and government agencies dealing with consumer protection.

This definition was slightly adapted from that used in the 2013 Status Review given that the recommendations made in this paper do not all apply directly to public ombudsmen and government agencies. These bodies often carry out energy-specific work in contrast to the consumer organisations targeted in this paper who often deal a large number of customer services/products/sectors at the same time. Public bodies are therefore considered to be different in nature and to have different relations with NRAs than general consumer organisations. These relations are, however, not subject to analysis in this Advice.

Capacity building

The term “capacity building” is used to cover the different activities that contribute to the build-up of knowledge within either the NRA and/or the consumer organisation. Capacity building activities can take various forms and can be delivered through training, workshops, e-learning facilities and other suitable forms.

1.3 Content

This CEER Advice report is structured around the following four thematic areas:

- Information Exchange
- Capacity Building
- Policy Development and Design
- Improving Compliance

These are considered to cover the key areas in which synergies between NRAs and consumer organisations exist. They are to be considered within regulators’ broader efforts to balance the interests and needs of the various energy market participants.

In terms of information exchange, this Advice recommends ways in which information exchange can be made more efficient and which tools can help to step it up.

The section on capacity building points to the value of the knowledge possessed by each party and suggests ways of achieving effective information sharing and knowledge transfer between NRAs and consumer organisations.

In the chapter on regulatory policy development and design, recommendations are made on how NRAs and consumer organisations can work together in more strategic areas, including at early stages when policy is developed and designed.

Finally, the Advice looks at ways in which information exchange can support NRAs’ compliance activities.



2 Information Exchange

Simplicity of Information

The parties involved in an information exchange process will only gain value from such a process if they understand clearly the content of the messages being conveyed to them. Effective communication therefore requires the skill of getting specific messages across in such a way that they will be understood by the respective counterpart. Hence, clarity of the content exchanged is a basic principle of effective communication. Accordingly, the parties involved should always aim at formulating their messages clearly and understandably. A constructive relationship will form a solid basis in terms of information sharing not only on general policy lines but also on specific compliance and enforcement issues.

The communication between NRAs and consumer organisations must be in line with these basic principles in order to ensure that both parties benefit from the process. Clarity in the communication between NRAs and consumer organisations is particularly important given the differing nature and approaches to their work. While NRAs perform highly specialised tasks that often require a significant level of technical expertise, consumer organisations have broader knowledge of consumer related problems and requirements, often across many sectors. Thus, consumer organisations can be well placed to identify market malfunctioning or breaches of consumer law based upon their daily contact with consumers.

In order to achieve effective exchange of information between NRAs and consumer organisations, reducing the complexity of the material exchanged should be a clear goal. This means information should be adapted according to the targeted recipient and transformed into clear and comprehensible formats. In this spirit, technical information from NRAs must be simplified and brought to a level that is understandable for consumer organisations. NRAs also have to pay attention to the volume of material circulated and the frequency with which they transfer information to avoid overloading consumer organisations. It is important to note that simplified information does not have to lead to a loss of information as details can be annexed to allow for further investigation. NRAs should also encourage consumer organisations to transform their broad knowledge base into concise and focused messages. While this should be a general principle in the communication between NRAs and consumer organisations, it does not mean that all information necessarily has to be treated in this way. The goal must be to identify key areas in which it makes sense to adapt content to a reduced level of complexity for the sake of common benefit. That is to say that it might not always be useful to exchange information of extreme complexity and this should be kept in mind.

Data and information shared by NRAs with consumer organisations should therefore be clear, simple and easy to understand and – where appropriate - in a standardised format, as is the case for complaint data⁵, so as to create value added in the cooperation between these two parties.

⁵ [GGP on Customer Complaint Handling, Reporting and Classification](#), CEER [June 2010], Ref. E10-CEM-33-05.



Recommendation 1 – Simplicity of information (Information Exchange)

Information shared between NRAs and consumer organisations, as well as with other markets participants, should be clear, simple and easy to understand. Technical data from NRAs should therefore be brought to an understandable level. NRAs should encourage consumer organisations to transform their broad knowledge base into concise and focused messages.

Visibility of Information

A precondition for successful information exchange is ease of access to relevant material. To facilitate the search for data by interested parties, information must be made visible and easy to find. The following proposals represent basic solutions, but many other additional ways of making information more visible or establishing other channels of communication can be envisaged.

An organisation's annual report is a useful tool to disseminate and visualise comprehensive information. These reports often depict the full scale of organisational activities and therefore represent an important source of information for stakeholders. NRAs should therefore make sure to share their annual reports pro-actively with consumer organisations, to provide information on key issues, upcoming initiatives and progress made on current activities. NRAs should encourage consumer organisations to do likewise.

Where appropriate, visibility should also be ensured in relation to ongoing activities (in addition to sharing information once a year through the annual report). In order to achieve higher visibility of e.g. important publications and regulatory decisions, these should be prominently advertised on the NRA's website but also communicated to consumer organisations at an early stage either through newsletters or by informing them directly. A powerful tool in this context is believed to be the provision of concise explanatory notes/fact sheets accompanying the main decisions/publications in order to attract the attention of stakeholders and make the work more visible to them. As a rule, explanatory documents could contain a mandatory section on the actual impact and relevance of the publication for consumers (e.g. a consumer impact assessment where appropriate). By way of example, at EU level, CEER publishes a "Citizens' Q&A" with every report it issues, with the aim of highlighting the relevance of the report to consumers. We also include a short consumer section in each report, summarising the relevance to consumers of the policy area covered in the text.

Recommendation 2 – Visibility of information (Information Exchange)

NRAs should ensure a high level of visibility in relation to their activities. This could be achieved by proactively delivering timely notifications about major decisions/publications and by supporting relevant documents with summary notes explaining core elements and effects on consumers. NRAs should encourage consumer organisations to act likewise in relation to NRAs.



Improved Communication Channels

Although NRAs and consumer organisations already have close ties in many countries, they can further improve the exchange of information by establishing enhanced communication practices.

Communication channels can be significantly optimised by identifying specific contact persons in relevant fields of interest. This would facilitate the way NRAs and consumer organisations can approach each other and would save time by enabling direct and targeted exchanges. This form of dialogue is considered important to address formal requests to the right person, and it can also help strengthen informal ties between regulators and consumer organisations. As shown by results of the 2013 CEER Status Review, NRAs and consumer organisations largely collaborate on an informal basis. Therefore, a positive impact on the informal relationship between the parties is important. One significant positive effect in this respect is the possibility to build mutual trust when permanent contact or liaison persons are in regular contact. In addition, regular meetings and relevant coordination can further strengthen ties.

Improved communication channels should also allow ad-hoc questions to be treated more efficiently and more rapidly, enhancing the process of information exchange.

Recommendation 3 – Improved communication channels (Information Exchange)

NRAs should identify contact persons in relevant fields of interest in order to allow relevant information to flow more rapidly and directly on the basis of mutual trust. NRAs should encourage consumer organisations to act likewise in relation to NRAs.

Clear Framework for Information Sharing

Information exchange can be structured and performed in a number of ways. While NRAs exchange information with a wide range of stakeholders, this section specifically looks at possible frameworks between NRAs and consumer organisations given that collaboration with such organisations remains less developed in many countries as compared to relations with other market participants.

The more clearly the framework is defined, the more efficiently the process will run, as it can avoid duplication and eliminate redundancies. As a matter of principle, the underlying structure of how and which information is exchanged between NRAs and consumer organisations should be determined by the individual parties involved, taking confidentiality policies as well as legal restrictions (including e.g. data security and security of business secrets) into account.



To this end, if no legal framework for cooperation exists, NRAs and consumer organisations may consider setting-up a joint bilateral non-binding agreement, with a view to stipulating the main principles to be applied in the information sharing process. Where such an agreement is deemed useful, it should be seen as a document describing the 'rules of the game' in relation to how and what information could be shared and how it should be treated. The agreement may contain general principles, such as how to deal with confidential information and what to do if one party breaches the agreed content, but it should not be too restrictive so as to leave room to develop the cooperation more broadly. Such a clear framework would provide guidance to the parties and eliminate barriers to dialogue. In order to guarantee a positive effect in the long-run, any such agreement could be reviewed regularly and updated where needed.

These principles could also be applied at EU level, e.g. between CEER and BEUC.

Recommendation 4 – Clear framework for information sharing (Information Exchange)

In order to establish a clear cooperation framework recognised by the relevant parties, and to the extent that no legal framework/obligation is already in place, NRAs should encourage consumer organisations to establish such a framework with them. The parties could in this way determine the basic principles in relation to how and which information should be shared. Such an agreement should not be too restrictive and may be reviewed/updated regularly to take changing circumstances into account over time.



3 Capacity Building

Synergies

A key function of both NRAs and consumer organisations consists in supporting consumers to actively participate in the market. While NRAs fulfil this task in a highly specialised manner and with technical experts at hand, consumer organisations need to balance human and financial resources to serve customers from a variety of sectors⁶. As a consequence, consumer organisations are generally less specialised in the individual sectors they represent and act on a broader level than NRAs, who have in-depth knowledge of energy markets. Consumer organisations, in turn, have first-hand information and valuable insight on customers' needs which NRAs might not have to the same extent. This knowledge and information asymmetry creates significant potential for synergies which should be exploited in order to strengthen the performance and capacity of both NRAs and consumer organisations. It is important to note that NRA independence remains vital in the context of capacity building.

Recommendation 5 – Synergies (Capacity Building)

NRAs should strengthen their performance in relation to consumer organisations and aim for joint capacity building measures given that they possess expertise of significant mutual value. Given the possible ultimate benefit for the final customer, these synergies should not be left unexploited.

Extent of Capacity Building

Although NRAs and consumer organisations may work towards similar goals when it comes to customer empowerment and protection, they have different mandates and roles which need to be respected. Thus, the cooperation between NRAs and consumer organisations should always aim at improving the knowledge and capacity of these institutions in their respective tasks as concerns these goals. Capacity building should therefore be carried out in a proportionate way and to the extent necessary to support and enhance institutional performance, without creating a role conflict or inefficient overlaps, especially with existing capacity building programmes⁷ performed by other institutions. In fact, NRAs may be seen as one possible actor of many to provide capacity building to consumer organisations and other market participants if relevant. The intensity and extent to which capacity building should be carried out thus need to be carefully evaluated in terms of their added value and available resources.

⁶ See results from “[CEER Status Review on the involvement of consumer organisations in the regulatory process as of 1st January 2013](#)”, CEER [October 2013], Ref. C13-CEM-65-03.

⁷ e.g. the TRACE project (Training for Consumer Empowerment) by BEUC (www.trace-beuc.org) and the Consumer Champion Program by the European Commission (www.consumerchampion.eu)



Proportionate capacity building also entails an effort to match each other's expectations in relation to the content and depth of capacity building. There is a need to identify the "right" level of knowledge to be transferred. It may be the case that consumer organisations do not necessarily need the same level of technical expertise as an NRA on a number of subjects and this should be respected with a view to efficient resource management. The same is true vice versa. Overall, identifying the right level of capacity building is important for both parties to emerge with a greater understanding of each other's work. Ultimately, this would enable NRAs and consumer organisations to have a more informed and effective dialogue.

Recommendation 6 – Extent of capacity building (Capacity Building)

Capacity building should be proportionate both in terms of content and resources. It should allow NRAs and consumer organisations as well as other market participants to enhance their level of knowledge with a view to allowing an informed dialogue.

Priority Subject Areas

NRAs address a broad range of issues related to energy markets and, thus, have good knowledge of the functioning of electricity and gas markets. Consumer organisation representatives have voiced great interest in learning more about the technical background of energy markets and the liberalisation process⁸ in order to be better able to represent their customers and form an independent opinion on current and upcoming regulations and their impacts. They are also interested in field of smart energy, particularly with respect to demand response, smart grids and smart meters. A number of additional topics were mentioned during the public consultation process, reflecting the individual needs of stakeholders. A need for capacity building was therefore identified in a number of relevant subject areas at both the wholesale and retail levels.

We note that the topics listed here are merely examples of areas in which capacity building could potentially take place. It is not suggested that these areas have to be treated as priority areas since priorities may be different in different countries and in different organisations.

National and EU energy legislation is another area where the knowledge base of consumer organisations could be reinforced. This is an important issue to address given that a sound legal basis can often form an important basis for defending consumers and is also a precondition for understanding the market context. Capacity building on legal issues should focus particularly on explaining the legislation currently in force in terms of substance, how it is interpreted and which processes and procedures are imposed in the relevant areas (e.g. in the field of complaint handling, billing, etc.).

Another high priority area is price setting and price comparison tools. A large proportion of the complaints received by consumer organisations concern pricing. Education on how prices are formulated, the different components of the energy price as well as how to interpret an energy bill can help to identify any issues more effectively.

⁸ [CEER public workshop with consumer organisations](#), 20 February 2014.



As these areas all coincide with the day-to-day work of a regulator, NRAs are well placed to deliver capacity building on these aspects to consumer organisations.

Consumer organisations' heavy exposure and day-to-day contact with customers make them rich in experience on customers' problems, needs and experiences. Given that regulators focus largely on technical work, they need to know what consumers want and what their needs are in order to work towards favourable market conditions for them when balancing the myriad of factors that go into ensuring the supply of energy. Consumer organisations may therefore provide capacity building to NRAs by sharing their detailed knowledge and experience on the issues that consumers struggle with. They can explain the reasons behind these problems are and what could be done to address them. Consumer organisations could inform regulators of unfair practices in the market such as abuse of dominant position and misleading information to customers, along with other practical problems that occur in the market with aspects such as switching.

In order to ensure capacity building is targeted and effective, NRAs should engage with consumer organisations to identify clearly their individual priorities and communicate the subject areas they are interested in. Capacity building on key priority areas is expected to enhance NRAs' and consumer organisations' credibility as their actions would be based on a more educated and broader view of the market and of consumers.

Recommendation 7 – Priority subject areas (Capacity Building)

Capacity building should be performed in clearly defined priority areas which may vary from country to country and from one institution to another. Priority areas should be selected carefully, on the basis of circumstances in individual national markets (different customer needs and priorities) and other relevant considerations.



Resource Management

Any effort towards capacity building goes hand in hand with the question of how to realise it given limited resources in both financial and human terms. Consumer organisations and NRAs are often financially constrained and have difficulty raising the necessary funds for training or other additional expenses for capacity building. The problem of funding is also explicitly referred to in BEUC's 2020 Vision: *"In all EU countries, as well as at EU level, consumer organisations have insufficient funds to cover the broad range of issues relevant to consumers"*⁹. NRAs are also constrained given that their experts are highly specialised and work at full capacity.

Capacity building therefore needs to be designed in an attractive way with strong added value for the beneficiaries and through innovative solutions to overcome financial burdens or any strain on human resources that may arise. It is believed that capacity building does not necessarily have to be associated with high costs. A ground rule should be to make capacity building worth the resources invested into it in order for it to work and to achieve the desired results. How this can be achieved will likely depend on the specific circumstances. Nevertheless a few basic ideas and principles can help to foster arrangements in this regard.

While capacity building cannot be achieved without investing human resources in its delivery, a possible strategy is to limit extra financial expenses as much as possible. Given that both organisations would benefit from reciprocal capacity building, this could provide a sufficient incentive for NRAs to offer capacity building free of charge (i.e. without any extra cost such as tuition). As both parties will benefit from capacity building, it could become a basic principle between NRAs and consumer organisations to offer each other capacity building to for free as far as possible. On a national level, for example, physical meetings could be organised at the premises of the NRA or the consumer organisations without the need to travel internationally and to use funds for other expenses¹⁰. There are a number of additional ways in which capacity building can be achieved successfully at little or no cost. These are outlined in more detail in the next section (Forms of Capacity Building) bearing in mind resource constraints.

However, both parties should also be aware that in some cases costs may be unavoidable. In such cases, the activities should be designed in an attractive manner and with proper incentives to make the activity worthwhile. This could be achieved for example by using non-financial compensation arrangements such as by providing course certificates, offering the possibility to widen an organisation's network, inviting high profile testimonials, etc.

Another possible approach could be to use available public funds which are dedicated to organisations active in the field of strengthening consumers, such as the European Commission. Donors may also proactively be made aware of the potential gains from the capacity building of consumer organisations and NRAs in order for them to consider earmarking funds for these purposes in the future.

⁹ Quoted from "[EU Consumers' 2020 Vision](#)", BEUC [May 2012], p.6.

¹⁰ Even when international travel is involved, such missions could be combined with other important activities or appointments to facilitate maximum efficiency and to limit costs as much as possible to the benefit of all involved parties.



Recommendation 8 – Resource management (Capacity Building)

NRAs should commit to a general principle of providing capacity building to consumer organisations free of charge (i.e. without any extra cost such as tuition or service fees) and should encourage consumer organisations to do the same. If extra costs cannot be avoided, additional incentives should be provided (e.g. course certificates, possibility to network, etc.) in order to optimise value for money. Public funding could be called upon if the intended activities qualify.

Forms of Capacity Building

Given obvious resource constraints (as described above), capacity building measures need to be as efficient as possible and designed well in order to appeal to their target audience. What is more, it must be ensured that capacity building can be easily accessed and absorbed by the beneficiary. In order to make a real impact, capacity building must also allow the target organisation to learn as a whole, rather than storing knowledge in isolated individuals. Capacity building must therefore be designed as comprehensively as possible. Several ways in which capacity building can be carried out are proposed below, bearing in mind these factors.

It is believed that the dissemination of knowledge via virtual means is an appropriate and very efficient tool for institutions to improve their capacity, given that it is easily accessible at all times and a large target audience can be reached at a relatively low cost. Moreover, virtual tools are flexible and dynamic and may offer various services in parallel to suit individual preferences. In addition, organisations typically have the necessary infrastructure already in place (computers, internet, webpage, etc.). Thus, the barriers to offer/receive capacity building through virtual means are very low and this should represent a key pillar in capacity building between NRAs and consumer organisations.

In concrete terms, regulators and consumer organisations could offer web platforms specifically dedicated to the dissemination of knowledge on the priority areas identified by the parties. In order to avoid duplication, these web platforms could be created at EU-level, ideally (and if resources are available) by the EU associations of national regulators and consumer organisations respectively (e.g. CEER and BEUC). They could contain in-depth technical briefs on overall priority subject areas relevant to all Member States and could, if possible, be complemented by a series of webinars or other user friendly applications that are effective in disseminating/acquiring skills. The content should be designed with a view to capacity building and should, thus, be distinguished from the general content on the webpage. For example, CEER has created a consumer-dedicated section on its website with infographics, factsheets and other information about energy markets of relevance to consumers.



It is believed that institutional capacity can be improved by offering information through such web platforms, with materials being accessible to all members of an organisation and not only to a few individuals who have enrolled in a physical training course. It may make particular sense to operate a web-based platform for sharing the basics of energy regulation on a European level, which could also be used to compile central documents of European significance relevant to all European actors. National specificities would still need to be transferred through national channels. However, the overall basics would not have to be provided by every country on its own and unnecessary duplication and inefficiencies could be avoided.

This, in turn, does not mean that physical training courses are less effective. On the contrary, the value of attending trainings can be very high, as they typically allow for more than just the presentation of written material. Discussion of the content, interactive simulations and other practical exercises allow for a thorough examination of the content. Training courses are therefore considered useful in highly complex areas and should be offered on demand and/or where public funds can be mobilised to support the attendance of beneficiaries and lecturers. If physical trainings cannot be organised by NRAs or consumer organisations themselves, they might recommend and/or facilitate trainings at other institutions (e.g. Florence School of Regulation¹¹). In order to allow an organisation as a whole to benefit from the courses attended by a few individuals, the course materials should always be made accessible to the whole organisation on the above-mentioned web platforms.

However, effective capacity building programmes must also consist of broader measures than those mentioned above. It is important not to reduce capacity building to classical knowledge transfer via textbooks and training courses, even if these measures play a central role. Instead, capacity building should be complemented by an increased networking effort in order to form closer ties, for example through the organisation of multi-stakeholder dialogues which not only allow discussion of current issues but also learning from the exposure to a plurality of views. This is believed to create a constructive atmosphere in which all stakeholders can give and receive institutional feedback which should be used to build capacity and foster organisational learning.

The combination of these capacity building measures is believed to be effective and comprehensive as well as flexible enough to adapt to individual circumstances if needed.

Recommendation 9 – Forms of capacity building (Capacity Building)

Capacity building should be realised through appropriate channels jointly agreed by NRAs and consumer organisations. Different groups may use different types of measures to share information and knowledge depending on individual needs.

¹¹ European University Institute, Robert Schuman Center for Advanced Studies, [Florence School of Regulation](#).



Best Practices from Other Sectors

Consumer organisations are often active in a wide variety of sectors and as a result may have experiences to share on successful capacity building programmes that can also be applied in the energy sector. A number of NRAs are also closely linked with regulators from other sectors and may have the possibility to inquire if best practice examples exist in other fields. Any capacity building measures that are considered useful by the parties involved should be considered and employed in addition to the measures described earlier. Differences between other sectors and the energy sector must, however, be taken into account to make capacity building as useful as possible.

Recommendation 10 – Best practice from other sectors (Capacity Building)

NRAs should make an effort to find out whether any best practice examples on capacity building programmes exist in other (regulated) sectors that can be applied to the energy sector as well. At the same time, NRAs should encourage consumer organisations to report on any best practice examples they are aware of.



4 Regulatory Policy Development and Design

Overview of Strategies and Policies

The results in the CEER 2013 Status Review show that current cooperation between NRAs and consumer organisations does not generally include joint activities on strategic matters and issues relating to energy policy development and design. Feedback received from consumer organisations during this review suggested that an increased dialogue with NRAs on strategic and policy related issues should, however, be considered. Collaboration on strategic matters implies contributing to future policies rather than working on existing rules and regulations.

Overall, there is a high level of consensus on the importance of a participatory process in policy development. At the same time, it must be mentioned that the extent of collaboration in this regard will depend on the mandate of the individual NRA given that not all regulators have the same scope and depth of powers. Additionally, we must underline that regulators must balance a range of interests, dialoguing with a variety of stakeholders, in the interests of safeguarding the continued, efficient and fair operation of energy markets. Also, the broader governmental framework has to be considered as decisions are often split among different governmental institutions. As a result, NRAs might only address a specific part of the policy development process or be focused entirely on ensuring compliance without a policy development remit. Thus, policy debate and development often involve a wide range of energy stakeholders, with regulators called upon to consider all views in the best interests of consumers and society overall. The participation of consumer representatives in such discussions is important to promote a better understanding of consumer needs and priorities and to explore the consequences and implications for consumers of envisaged policies. Regulators reaffirmed the importance of such open dialogue on the development of energy markets in ACER's "Energy Regulation: A Bridge to 2025 Conclusions Paper," which includes proposals to strengthen consumers' and other stakeholders' involvement, for example by setting up stakeholder panels.

As a starting point for a fruitful dialogue on policy development, it is important that NRAs and consumer organisations have a clear picture of each other's strategies, priorities and the overall direction of their policies. The process of collaboration in policy development should therefore start from a common understanding of the different focus areas and policy directions. This will allow the parties to establish a common starting point on an equal footing and enable the different parties to decide early on where to focus their attention, and if any skill-building or training is required to engage on any particular topic.

Recommendation 11 – Overview of future developments of the regulatory framework (Regulatory Policy Development and Design)

As a prerequisite for an increased dialogue on strategic and policy related issues, NRAs should provide an overview of future developments regarding the regulatory framework and encourage consumer organisations, alongside other market participants, to participate in this process.



Prioritisation of future regulatory developments

A next step should consist in selecting the key areas in which NRAs and consumer organisations want to debate or discuss future policies. Clear priorities should be established in terms of short-term versus long-term engagement and should be agreed jointly.

Overall, areas in which consumer organisations have high stakes should be targeted as priority areas noting that there may at times be a need to focus on certain legislative priorities or other policy areas. Such a targeted approach will help focus the collaboration on the most important topics and will allow consumer organisations to use their resources efficiently.

Recommendation 12 – Prioritisation of future regulatory developments (Regulatory Policy Development and Design)

NRAs, in dialogue with consumer organisations, should identify key priority areas of future regulatory framework developments in order to establish a strongly focused discussion that also allows resource-constrained consumer organisations to get involved.

Public Consultations

As the results in CEER's 2013 Status Review show, consumer organisations already participate in public consultations held by NRAs. This practice is considered to be a particularly useful tool in engaging a wide range of stakeholders in the work of NRAs. Public consultations should therefore continue to play a central role in ensuring the involvement of consumer organisations in the policy development process.

While consumer organisations as well as other stakeholders are invited to reply to public consultations, consumer organisations may, in selected cases and if appropriate, be called upon already at an earlier stage to provide input in the development phase of e.g. public consultation questionnaires. As a consequence, NRAs may launch more public consultations on new policy proposals to ensure broad participation in the development process. In addition, any initiatives undertaken by NRAs and consumer organisations in the policy development phase should be well coordinated and communicated.

Consultations as well as planned initiatives must be announced well in advance so that stakeholders have enough time to react. During the consultation period, input from a broad range of consumer organisations and stakeholders should be taken on board considering the different roles of market players and other actors. NRAs should actively seek views from consumer organisations. Initiatives on both sides should be well communicated.

Recommendation 13 – Public consultations (Regulatory Policy Development and Design)

Public consultations at national level should play a central role in the policy development process with a view to allowing interested stakeholders to take part in this process. Where appropriate, relevant input from consumer organisations may be called upon in the early preparation phases of such consultation processes.



Transparency

End-to-end transparency is a key element of the decision-making process. A high level of transparency on the positions taken by either side should be guaranteed whenever possible to foster understanding and increase accountability. Consumer organisations should be given the appropriate time to express their wishes and concerns. Transparency is also crucial for the parties to understand how their input was taken up in the policy making process. Clear procedures and an effective involvement of consumer organisations throughout the whole process may ultimately lead to wider acceptance of final decisions and initiatives taken.

Recommendation 14 – Transparency (Regulatory Policy Development and Design)

NRAs should provide maximum transparency whenever possible and should ensure clarity on how input from consumer organisations as well as from other stakeholders is taken into consideration during the regulatory policy development process in order to increase accountability.



5 Improving Compliance

Evidence-based regulation

Effective implementation, compliance and enforcement of rules are important aspects in creating trust in the market and its actors. Regulators have a key role in this respect as their responsibilities include the implementation and enforcement of rules as well as the design of measures aimed at improving compliance. Market monitoring is a powerful tool used by NRAs to carry out this task. While market monitoring allows regulators to examine market participants' compliance with rules in various fields, this process does not typically include the opinion or experience of other parties.

In the field of customer empowerment and protection, an increased exchange of information between regulators and consumer organisations could, however, contribute to addressing better non-compliance of rules whilst fully retaining regulatory independence. Exchanging information could allow NRAs to make use of the signals consumers give about non-compliant behaviour in the market. Such an exchange of information can alert regulators at an early stage to problems that need to be addressed and would help to deliver concrete evidence¹² of unlawful behaviour in the market. The evaluation and gathering of evidence is considered to be central in fulfilling the NRA's mandate to ensure legal compliance. Where appropriate, consumer organisations could, thus, make an important contribution to this process by conveying significant evidence of non-compliant behaviour to the NRA. Where relevant, the NRA could in turn inform the consumer organisations as to how the information they provide is taken into account even if the application of compliance measures and final enforcement decision remains with the NRA alone (and to the extent there are no confidentiality or legislative reasons/issues). In order to get a more complete picture, the dialogue with consumer organisations may also be complemented by exchanges with the industry and other market participants such as ADR bodies, competition authorities, ombudsmen and many more.

Engaging in information exchange with consumer organisations could improve the quality of envisaged compliance measures. In addition, inclusion of stakeholders in the process is likely to enhance the acceptance and legitimacy of compliance measures and enforcement decisions taken by the regulator and may ultimately lead to more compliant behaviour by market participants overall.

Recommendation 15 – Evidence-based regulation (Improving Compliance)

Regulatory compliance processes should be evidence-based and could include exchanges of information between NRAs and consumer organisations as well as with other market participants to detect potential non-compliant behaviour in the market. This would also result in a higher degree of acceptance and legitimacy of decisions. However, the NRA is not obliged to act upon all the information it may receive, as ultimately the NRA is responsible for deciding when and how to ensure compliance.

¹² e.g. a consumer organisation can alert the NRA when a large number of complaints are received against a particular actor or on a particular subject



Accountability

As national authorities, regulators have been given a specific mandate and certain responsibilities to fulfil. A fundamental characteristic in this respect is their independent institutional status and set up, which allows them to take decisions in the best interest of the market and its consumers. Thus, as an actor taking decisions with a significant impact on market participants, NRAs need to be accountable for their actions and need to take responsibility for the consequences of their decisions. They may also be subject to appeal and review.

Feedback received from consumer organisations called for more transparency in terms of the decisions taken by regulators, in order to allow these organisations consistently to trace and assess NRA practices in the area of customer empowerment and protection.

A possible solution to this is to establish appropriate means of communication between NRAs and consumer organisations in order to provide clarity on the principles applied in current and past regulatory compliance processes and enforcement decisions.

To this end, it is proposed that NRAs and consumer organisations think about consistent reporting mechanisms to ensure that regulatory decisions and their outcomes are effectively communicated. Such a reporting mechanism may include an agreement that certain compliance measures and enforcement decisions should be published and accessible to a wider public, taking into account any confidentiality obligations. This could be implemented systematically by e.g. specific sections in the NRAs' annual reports. This will not only allow stakeholders to have access to regulatory decisions and create a level playing field, but will also underscore the NRAs' efforts to take non-discriminatory, well justified and independent decisions.

Recommendation 16 – Accountability (Improving Compliance)

In order to enhance the accountability of NRAs, regulators should develop appropriate means of communication with consumer organisations, as well as with other market participants, to create effective transparency of regulatory actions and decisions.



6 Conclusions

This Advice examines how best to involve and engage consumer organisations in the regulatory process by drawing up a number of recommendations which should result in a more structured approach to consumer organisations and in a greater mutual understanding of markets and consumer concerns through the availability of more information and dialogue channels. By proposing concrete measures in the fields of information exchange, capacity building and policy development/design, CEER aims to facilitate a more organised relationship between NRAs and consumer organisations. This will likely enhance their respective performance and thereby create more favourable market conditions as well as better empowerment and protection services for customers in the long run.

The recommendations in this Advice can be viewed in terms of how they relate to the four key principles established in CEER's 2020 Customer Vision - reliability, affordability, simplicity and empowerment/protection, (the RASP principles):

- Regulators' structured approach to consumer organisations is believed to strengthen the **reliability** of processes and services delivered to consumers and to enhance **customer empowerment/protection** as more transparency, regulatory accountability and stronger compliance with rules should result from cooperation with consumer organisations;
- By joining forces in disseminating, explaining and increasing accessibility of rules and regulations in the market, customers will benefit from information that is readily available and **simple** to understand; and
- An enhanced engagement of consumer organisations in energy policy development should contribute to improving the design of market rules to achieve more competitive markets, which in turn is a condition for **affordable** prices in the long run.

In the field of information exchange, CEER believes that a strong commitment from both parties to deliver clear, simple and easy to understand information is a cornerstone of effective information exchange. In order to help bring key messages across and make them more visible, CEER further concludes that NRAs should proactively notify consumer organisations about their decisions/publications and provide summary notes explaining the core elements of these documents and expected effects on consumers. CEER additionally argues that information exchange on an informal basis can be strengthened by establishing improved communication channels, for example through nominated contact persons on both sides. CEER finally draws the overall conclusion that the establishment of a clear framework of information sharing may be useful in order to agree on the main principles in relation to their collaboration and the exchange of information. Similarly, these principles could be applied at EU level, for example between CEER and BEUC.

In the area of capacity building, CEER concludes that there are several possible ways and arrangements that can be applied to carry out effective capacity building even if resources are limited. Examples could include the dissemination of knowledge via virtual means and physical training (if possible to be offered free of charge) as well as networking initiatives to strengthen each other's ties and allow for mutual feedback. As both parties possess expertise of significant mutual value, CEER further concludes that capacity building should be reciprocal and carried out in a number of specific priority areas. Any best practices from other sectors should be considered in addition to the suggestions made by CEER.



Bearing in mind that regulatory policy development and design is a new area of potential collaboration, CEER concludes that NRAs should, as a first step, provide an overview of future developments regarding the regulatory framework in order to identify common fields of action and to prioritise these accordingly. CEER further believes that public consultations should play a central role in the regulatory policy development process with a view to allowing consumer organisations and interested stakeholders to take part in this process. In this context, consumer organisations may already be invited to provide input at earlier stages to the extent possible and where deemed appropriate. Another key conclusion in this section underlines that high level end-to-end transparency is needed throughout this process in order for consumer organisations to understand how their input was taken up. Another way of allowing stakeholders to take part in the developments of the regulatory framework would be through the creation of panels, as suggested in ACER's "Energy Regulation: A Bridge to 2025 Conclusions Paper".

In terms of improving compliance with energy market rules and regulations, CEER concludes that the inclusion of consumer organisations (and other market actors) in the process of detecting non-compliant behaviour on the market will not only contribute to a strong evidence-based regulatory practice but will also increase acceptance and legitimacy of the resulting decisions. CEER further concludes that consumer organisations and NRAs should find an appropriate mechanism to communicate regulatory compliance measures and enforcement decisions in order to enhance the accountability of NRAs. The Advice also finds that a joint effort in disseminating, explaining and increasing accessibility of rules and regulations will lead to better compliance results.

The present recommendations lead to the overall conclusion that the effective involvement of consumer organisations in the regulatory process has the potential to deliver stronger results in favour of market functioning, customer empowerment and protection.



Annex 1 – CEER

The Council of European Energy Regulators (CEER) is the voice of Europe's national regulators of electricity and gas at EU and international level. CEER's members and observers (from 33 European countries) are the statutory bodies responsible for energy regulation at national level.

One of CEER's key objectives is to facilitate the creation of a single, competitive, efficient and sustainable EU internal energy market that works in the public interest. CEER actively promotes an investment-friendly and harmonised regulatory environment, and consistent application of existing EU legislation. Moreover, CEER champions consumer issues in our belief that a competitive and secure EU single energy market is not a goal in itself, but should deliver benefits for energy consumers.

CEER, based in Brussels, deals with a broad range of energy issues including retail markets and consumers; distribution networks; smart grids; flexibility; sustainability; and international cooperation. European energy regulators are committed to a holistic approach to energy regulation in Europe. Through CEER, NRAs cooperate and develop common position papers, advice and forward-thinking recommendations to improve the electricity and gas markets for the benefit of consumers and businesses.

The work of CEER is structured according to a number of working groups and task forces, composed of staff members of the national energy regulatory authorities, and supported by the CEER Secretariat. This Advice was prepared by the Customer Empowerment Task Force of CEER's Customer and Retail Markets Working Group.

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More information at www.ceer.eu.



Annex 2 – List of abbreviations

Term	Definition
ACER	Agency for the Cooperation of Energy Regulators
ADR	Alternative Dispute Resolution
BEUC	Bureau Européen des Unions de Consommateurs, The European Consumers' Organisation
CEER	Council of European Energy Regulators
NRA	National Regulatory Authority
RASP	Reliability, Affordability, Simplicity, Protection and Empowerment