

Implementing the third energy package -

BEUC's answer to the consultation
by the European Energy Regulators

Contact: Levi Nietvelt – economic@beuc.eu
Ref.: X/081/2008 - 22/12/08

BEUC, the European Consumers' Organisation
36 avenue de Tervueren, 1040 Bruxelles - +32 2 743 15 90
Want to know more about BEUC? Visit www.beuc.eu

BEUC, the European Consumer organisation represents 42 independent consumer organisations from 32 countries. We welcome the opportunity to answer the questions put forward by the European Energy Regulators.

Stakeholder involvement and BEUC's priorities until 2011

For the period 2009-2011, BEUC's members have identified several key areas where policy changes are desirable. Consumers need to be able to choose for goods which are more sustainable. Furthermore, consumers' choice in the energy markets need to be increased and the availability and affordability of energy needs to be ensured.

Within BEUC, a Sustainable Energy team has been created. We commented on the 3rd Energy package and indeed called for a "stakeholders' panel". BEUC also participated in the first "Citizens Energy Forum". Furthermore, we had the pleasure to be involved in the work of the Customer Working Group. In the future, we hope to be able to participate and contribute to general policy initiatives such as the conference on the 11th December 2008.

BEUC's answer to the public consultation

As far as the public consultation is concerned, we will only answer the questions related to the consultation mechanisms as we have relevant views on this topic.

B *Could the fora (i.e Florence, Madrid, London) be further enhanced to allow stakeholders to make an effective contribution to the development of the single European energy market? How could this be done in a practical way?*

As we have stated when the Citizens Energy Forum was set up, equal representation of all stakeholders is key. We are happy to see that at least on paper, this has been guaranteed. Nevertheless, some improvement could be made:

1. On specific issues, household consumers' point of view should be taken into account in the other forums than the Citizens Energy Forum. In that respect it is worth mentioning the deliverable from the 2009 work program:

- The review of the liberalisation process: BEUC questioned its members in 2008 and found that in many markets competition is limited.
- The status review of sustainable development: BEUC would be happy to be informed on the scope and outcome of the review. As far as we know, this subject has not been discussed in the Citizens Energy Forum.
- The implications of the "Green" package: The choice for "Green" energy currently increases consumer's willingness to switch which is crucial for a well functioning energy market. At the same time, the choice currently does not lead to additional capacity being installed. Demand does not lead to increased supply.

In relation to these subjects, BEUC thinks the consumer point of view should be sought and taken into account.

2. During the discussions in London, more time should be given to representatives from consumer organisations and small businesses. During the next forum, we would like to be able to comment on all subjects as the first party in order to set the tone of the debate and the focus the issue towards the smaller customer. Furthermore, small users and representatives of consumer organisations should have a bigger stake in setting the agenda of the forum. The following subjects could be addressed in future CEF's:

- Focus on the development, protection and promotion of consumer rights in particular transparency, fairness of offers and prices and combat mis-selling.
- Monitor best practices of the energy industry in relation to customer complaints handling and where relevant propose regulatory intervention.
- Brief the forum on the activities of the other forums especially when aimed at creating competitive wholesale markets which would result in more choice at retail level.
- Include sustainable consumption when analysing sustainable development in general.
- Report to the forum on the independence and powers of energy regulators, the powers to monitor and issue advice on how to guarantee energy remains affordable.

We will signal these points also to the European Commission. In many Member States, regulators are to an important extent responsible for ensuring the obligations given to Member State.

3. The Citizens energy forum could be opened to industrial customers and medium size customers for subjects of their interest such as the role of distributors or unbundling. This would decrease the relative dominance of the energy industry in the Citizens Energy Forum.

4. The rules of procedure could also be improved:

The frequency of meetings should be bi-annual, to ensure adequate follow up. Alternatively, intermediate meetings in Brussels with a steering Committee composed of an equal and limited number of representatives of each party could meet more regularly. The agendas and preparatory documents should be sent at least a month ahead of the meeting, in order to ensure adequate preparation and internal consultation.

C. *Could focused 'ad hoc panels' of interested expert stakeholders assist the Agency in the development of regulatory policies? Should they be linked (though without full representation) to the **Florence, Madrid, and the new London Fora** to avoid the proliferation of consultation structures, ensure the effective delivery of stakeholder views and proper representation? Or should the ad hoc panels be organized independently of the Fora in close cooperation with energy consumer and network user representatives?*

In our comments on the proposals for a 3rd energy package in 2007, BEUC had called for stakeholders representation within the new Agency or through the idea of a "retail" forum as it was mentioned in the Commission's communication. BEUC welcomed the initiatives aimed at involving stakeholders. At the same time, we highlighted that

consumer organisations have limited resources to participate in the working groups and need to prioritize their efforts. **We therefore prefer to integrate the stakeholders' consultation in relation to the work of the Agency into the different forums.** During the forums, representatives from the Agency can seek the views of the stakeholders and hold public discussions. These public discussions could be a fixed item on the agenda of each Forum.

BEUC nevertheless believes that the 'ad hoc panels' of stakeholders could be very valuable in the development of regulatory policies. We do think there should be a link towards the different Forums in order to avoid a proliferation of consultation structures, to increase transparency and to ensure that the results are known to all stakeholders. **The Forums should officially set-up these "ad hoc panels" and the panels should report back to the Forum but the organisation of the work should be left to the Agency just as in the case of the work-group on billing.** Several of BEUC's members would be interested in joining these types of panels when the subjects are of relevance to their national energy markets.

D *Are proposed measures to ensure the **proper public accountability** of the Agency broadly adequate?*

From a consumer perspective it would be reassuring if the Agency would have in its statute some basic consumer or citizen principles to test its policies on comparable to for example the statutory objectives of regulators such as:

"The Agency shall promote competition in the provision of electricity, gas and associated facilities and services by ensuring that users, including disadvantaged users, derive maximum benefit in terms of choice price and quality."

Through the accountability mechanism as described the work of the agency can be reviewed. The mechanisms as described are in our view a good start. What we would like to see in addition is a mechanism for legal scrutiny of the decisions of the Agency, preferably through national courts.

Final remarks

The consultation documents also set out the reviewed consultation procedures as to:

- who should be consulted;
- when consultation should take place;
- how the consultation should happen;
- how ERGEG will respond to comments made during a consultation;
- how confidential information will be handled

For the time being, we do not have a view on these issues.

END