



Status Review of End-User Price Regulation as of 1 January 2010

**Ref: E10-CEM-34-03
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INFORMATION PAGE

Abstract

This document (E10-CEM-34-03) presents ERGEG's Status Review of End-User Price Regulation as of 1 January 2010.

The Status Review is a follow-up to ERGEG's 2007 Position Paper on End-user Energy Price Regulation (Ref. E07-CPR-10-03) and ERGEG's Status Review of End-User Price Regulation as of 1 July 2008 (Ref. E08-CPR-21-05). It provides an overview of the state of play of energy price regulation in ERGEG member and observer countries as of 1 January 2010. The review looks at whether regulated prices still exist following market opening and whether there has been progress towards markets without regulated end-user prices. ERGEG did not ask how prices are regulated or which methodologies are being used. Nor does it address the reasons for price regulation or price levels.

Target Audience

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

Related Documents

CEER/ERGEG documents

- "Status Review on end-user price regulation as of 1 July 2008," Ref. E08-CPR-21-05, 11 March 2009, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/Tab/E08-CPR-21-05_End-UserPrices_11%20Mar%2009.pdf
- "End-User Price Regulation, an ERGEG Position Paper," Ref. E07-CPR-10-03, 18 July 2007, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/2007/E07-CPR-10-03_E-UPriceReg_0.pdf
- "Status Review on End-user price regulation 2007," Ref. E07-CPR-08-04, 14 June 2007, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/2007/E07-CPR-08-04_StatusE-UPrices_final_0.pdf

External Documents

- Judgment of the Court of Justice of the European Union (Grand Chamber), Case C-265/08, 20 April 2010, <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en&newform=newform&alljur=alljur&jurcdj=jurcdj&jurtpi=jurtpi&jurtf>

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EXECUTIVE SUMMARY

By definition, an end-user regulated price is a price subject to regulation by a public authority, as opposed to an end-user price set exclusively by supply and demand. The focus of this Status Review is on end-user energy price regulation in market segments which are also open to competition. “Energy price” refers solely to the “energy” part of the price, excluding costs of transport/distribution, taxes and VAT.

This report covers general price regulation but not regulated prices for specific consumer groups like vulnerable customers or customers who have lost their supplier (“supply of last resort”).

This Status Review is a follow-up to ERGEG’s 2007 Position Paper of End-user Energy Price Regulation¹ and ERGEG’s Status Review of End-User Price Regulation as of 1 July 2008². The report provides an overview of the state of play of energy price regulation in ERGEG member and observer countries as of 1 January 2010. It looks at whether regulated prices still exist following market opening and whether there has been progress towards markets without regulated end-user prices. However, ERGEG did not ask how prices are regulated or which methodologies are being used. Nor does it address the reasons for price regulation or price levels. Price regulation can take different forms and can be executed through various methods, such as setting prices or approval of prices, price caps or various elements of these. ERGEG does not differentiate on how the different methods of regulating prices impact on competition in the retail market.

¹ Ref. E07-CPR-10-03, 18 July 2007, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/2007/E07-CPR-10-03_E-UPriceReg_0.pdf

² Ref. E08-CPR-21-05, 11 March 2009, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/Tab/E08-CPR-21-05_End-UserPrices_11%20Mar%2009.pdf

In its 2007 Position Paper, ERGEG advocated that building competitive electricity and gas markets is in the interest of customers. Since 1 July 2007, electricity and gas markets in Member States in Europe are fully opened for all customers, including households. Since 1 July 2007, some Member States regulate end-user energy prices (so called “regulated tariffs”), arguing that it is a tool to protect vulnerable customers. However, protecting “vulnerable customers” should not be confused with regulated tariffs for all (or certain categories) of customers. It is ERGEG’s view that fully open markets with well-functioning competition cannot in the long-term coexist with regulated end-user energy prices.

- *End-user price regulation in electricity and gas markets distorts the functioning of the market and jeopardises both security of supply and the efforts to fight climate change. Therefore, end-user price regulation should be abolished, or where appropriate, brought into line with market conditions.*
- *Protecting “vulnerable customers” remains necessary in competitive markets. The tools used for the protection of vulnerable customers must work in line with and support the pre-requisites of open, competitive markets.*
- *Transition periods towards well-functioning competition (for the co-existence of regulated and market prices) may be necessary to protect customers from potential abuses of dominant positions. ERGEG calls on all countries which are in a transition period to publish an individual road map towards competitive markets to remove regulated prices. This road map should contain specified and attainable steps to establish the necessary conditions for a well-functioning market with no need for end-user price regulation. The steps taken by the Member States during the transition period should be properly monitored both at national and EU levels.*
- *It is recognised that in some countries, although in theory the market is open, in practice there may still be only one supplier and a consequent lack of choice for consumers. Even then, regulated end-user energy prices should only continue for as short a duration as possible, so as to enable effective competition to develop in the now liberalised energy market. In Member States where there is only one supplier, ERGEG urges the Member State governments and regulators to act rapidly so as to create an environment to attract the new entry of suppliers.*

Overview of end-user price regulation

As of 1 January 2010, in a still significant number of countries - 18 in electricity (out of 30 countries) and 15 in gas (out of 25 countries) - end-user regulated prices exist on at least one of the various market segments – households, small businesses, medium-sized to large businesses and energy-intensive industry.

In most of the countries with end-user regulated prices, the share of eligible customers supplied under regulated prices is more than 80%, in each of the market segments considered, which clearly indicates a lack of competition in the retail market. This share is close to 100% for the household segment in most of the countries, where we observe still a high level of price regulation which is not in line with a well-functioning and competitive market. This figure is often smaller for larger customers. However, the data collected in this document does not allow for a comparison of the level of competition between Member States with and without price regulation.

In most of these countries, customers can return to regulated prices after having changed to a retail market price. In some countries, they have to stay in the market during a fixed minimum period of time before being allowed to return to regulated prices.

Progress between July 2008 and January 2010

Between July 2008 and January 2010, 1 country having a closed market for medium to large-sized businesses, Estonia, opened its market to competition with end-user regulated prices.

In electricity, end-user price regulation was removed between July 2008 and January 2010 in:

- 1 country in the small businesses segment: Spain;
- 2 countries in the medium-sized to large businesses segment: Spain and Lithuania; and
- 3 countries in the energy-intensive industry segment: Greece, Romania and Spain.

In only 1 country, Slovak Republic, end-user price regulation was introduced - in the small businesses segment.

In gas, end-user price regulation was removed between July 2008 and January 2010 in:

- 1 country for households: Estonia;
- 1 country for small businesses: Spain;
- 1 country for energy-intensive industry: Hungary; and
- 2 countries for the medium-sized to large businesses: Denmark and Hungary.

No end-user price regulation was introduced.

Adoption of a roadmap towards a market without end-user price regulation

As of 1 January 2010, 5 out of 17 ERGEG member and observer countries with price regulation have adopted a roadmap towards a competitive market without end-user price regulation for electricity, and 1 out of 15 countries for gas. The adoption of such a roadmap was one of ERGEG's recommendations in its 2007 Position Paper on end-user energy price regulation.

It should be noted that in most cases these roadmaps do not concern all market segments with end-user regulated prices. Household segments are often not covered and there are no real plans to alter the situation in the future. Moreover, the roadmaps do not always give a concrete removal date and time-schedule for regulated prices.

In electricity, 5 countries adopted a roadmap towards price regulation removal: Estonia, Latvia, Lithuania, Poland and Slovak Republic.

In gas, only 1 country, Hungary, has adopted a roadmap towards price regulation removal.

Other developments

As of 1 January 2010, aside from the binding decisions to adopt a roadmap towards an end-user price regulation removal, in some countries there is also a plan to adopt a roadmap or other developments in order to remove end-user price regulation.

In electricity, 2 countries: Ireland and Portugal have a plan to adopt a roadmap, and another 4 countries: Denmark, France, Greece and Italy have other developments in progress towards end-user price regulation removal.

In gas, 1 country, Poland has a plan to adopt a roadmap and another 2 countries: Romania and Portugal have other developments in order to remove end-user price regulation.

Role of the regulator regarding price regulation

In about 80% of the countries with end-user regulated prices, the regulator sets or approves these prices. In the countries where the regulator does not set or approve end-user regulated price, its role is to give a consultative opinion or recommendation.

The decision to remove end-user price regulation lies with the regulator in 3 countries (out of 18) in electricity: Cyprus, Ireland and Poland and in 2 countries (out of 15) in gas: Ireland and Poland.

Main findings

In a large number of European countries, price regulation still exists, especially for the household segment where not much progress can be seen; this may be because the European Directives leave a lot of room for interpretation regarding price regulation. Indeed, a recent judgment of the Court of Justice of the European Union (Case 265/08, 20 April 2010) confirms that end-user price regulation, under certain restrictive conditions, can be, as a temporary measure, in compliance with the Directives.

A roadmap towards a free market without price regulation has been adopted by a few countries. However, in some cases there is not a concrete time-schedule and/or very often not all segments are targeted, in particular households are often not included.

1 Introduction

Following the publication of a Status Review on End-user Price Regulation in June 2007³, ERGEG published a Position Paper on End-user Energy Price Regulation on 18 July 2007⁴ and also a Status Review on End-user Price Regulation in July 2008⁵. ERGEG believes that fully open markets with well-functioning competition cannot in the long-term coexist with regulated end-user energy prices as defined and covered by the 2007 Position Paper.

In its 2007 Position Paper, ERGEG advocates that:

- Countries who continue (after 1 July 2007) to offer regulated end-user prices should urgently progress towards a competitive market. The “transition period” with regulated prices should be for a pre-determined fixed period and should be as short as possible.
- It is essential that those countries, which during a transition period continue to have regulated end-user prices, publish an individual roadmap towards a competitive market without end-user price regulation.

This roadmap should contain specified and attainable steps to establish the necessary conditions for a well-functioning and competitive market without the need for continued end-user price regulation. Such conditions should include the empowerment of the regulator to closely monitor developments in energy markets. The responsibilities and the mandates for each authority concerned should be defined by each country.

Part of the roadmap should include a rigorous application of competition law and the education of customers to prepare them for the competitive market. Finally, a step-by-step process towards a transparent price model that reflects the market price level should be defined.

The present Status Review is a follow-up to ERGEG’s 2007 Position Paper on End-user Energy Price Regulation and provides an overview of the state of play of price regulation in ERGEG member and observer countries, based upon an internal questionnaire circulated to national regulatory authorities (NRAs). The report is divided into two sections, for electricity and gas respectively.

³ Ref. E07-CPR-08-04, 14 June 2007, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/2007/E07-CPR-08-04_StatusE-UPrices_final_0.pdf

⁴ See Footnote 1.

⁵ See Footnote 2.

1.1 Methodology

Further to its 2007 and 2008 work, during 2010 ERGEG conducted a monitoring exercise to determine the status of end-user energy price regulation in ERGEG member and observer countries. Its objectives included:

- carrying out a survey on the adoption by countries of a roadmap towards a competitive market without end-user price regulation;
- updating some of the data included in the July 2008 status review on end-user price regulation, with the situation as of 1 January 2010;
- noting any progress towards a competitive market between July 2008 and January 2010.

All data for July 2008 that is used to draw conclusions stems from the 2008 Status Review on end-user price regulation.

The remaining data used for the 2010 Status Review is the result of an internal questionnaire submitted to NRAs at the end of 2009. **NRAs were asked to report on the situation in their countries as of 1 January 2010.**

Most of the data is given for 4 market segments: households, small businesses, medium-sized to large businesses and energy-intensive industry, although definitions for market segmentation can vary from one country to another.

Definition of an end-user regulated price

By definition, an end-user regulated price is a price subject to regulation (or control) by a public authority, as opposed to an end-user price set exclusively by supply and demand. The regulation can take different forms, such as setting or approval of prices, price caps or various elements of these. The focus of this Status Review is on end-user energy price regulation in market segments which are also open to competition. “Energy price” refers solely to the “energy” part of the price, excluding costs of transport/distribution, taxes and VAT. End-user energy price regulation can concern:

- all customers within a certain customer category (“universal service” supply, “default” supply etc. but excluding vulnerable customers);
- vulnerable customers;
- customers who have lost their supplier (“supply of last resort”, “universal service” supply).

This report does not include the last two types of end-user energy price regulation, as these issues are more generally the responsibility of government and political decisions than of market, and therefore, regulatory ones.

1.2 Questions addressed by the present report

During the elaboration of this Status Review, ERGEG sought information from regulators on the following points (based on the situation as of 1 January 2010):

1. Is there end-user energy price regulation in your electricity (gas) system?
2. What is the percentage of customers supplied at regulated price in relation to the total number of customers in each segment?
3. Has a roadmap towards a competitive market without end-user price regulation been adopted?
4. Which institution decides on the removal of price regulation?
5. Who sets/approves end-user regulated prices?
6. Are customers who have switched to market prices able to return to regulated prices?

Table 1: Countries participating in the Status Review

	Answers to electricity questionnaire	Answers to gas questionnaire
EREGG Members		
Austria		
Belgium		
Bulgaria		
Cyprus		no gas
Czech Republic		
Denmark		
Estonia		
Finland		exempted from opening
France		
Germany		
Greece		
Hungary		
Ireland		
Italy		
Latvia		
Lithuania		
Luxembourg		
Malta		no gas
Poland		
Portugal		
Romania		
Slovak Republic		
Slovenia		
Spain		
Sweden		
The Netherlands		
United Kingdom (GB only) ⁶		
EREGG Observers		
Croatia		
Iceland		no gas
Norway		no gas
Turkey		
	30	25
YES		
NO		

The online questionnaires were administered to 27 EREGG member countries and 4 EREGG observer countries.

Full or partial answers were received from 30 countries (electricity) and 25 countries (gas).

⁶ In this report, United Kingdom refers to Great Britain and is exclusive of the situation in Northern Ireland.

Electricity

2 ELECTRICITY

Regulators were asked the following questions regarding price regulation in their markets:

- Is there end-user energy price regulation in your electricity system for the following market segments?
- If yes, for each segment, indicate the percentage of customers supplied at regulated prices on 1 January 2010, in relation to the total number of customers in that segment (if necessary, segments can be merged)
- If yes, please indicate the exact date when end-user price regulation is going to be removed?

2.1 End-user electricity price regulation

Table 2 below presents an overview of market opening per country and of the existence of end-user price regulation in open market segments. Market segments where regulated end-user prices still exist are shown in orange, whereas market segments without any regulated end-user price are depicted in green. Segments closed to competition as of 1 January 2010 are shown in red. If known, scheduled dates of removal of end-user price regulation are also portrayed in the table for each segment they apply for.

The segments open to competition in July 2008, where end-user price regulation was removed between July 2008 and January 2010, are circled in orange.

The segments which were closed in July 2008 and are open in January 2010 are circled in red.

Electricity

Table 2: Overview of market opening & price regulation in open electricity market segments as of 1 January 2010


Country	Market opening Final market opening date	Price regulation on 1 January 2010			
		Households	Small businesses	Medium-sized to large businesses	Energy-intensive industry
AUSTRIA	2001				
BELGIUM	Jan-07				
BULGARIA					
CROATIA					
CYPRUS					
CZECH REPUBLIC	2006				
DENMARK	2003				
ESTONIA	2009	2013-01	2013-01	2010-04	2010-04
FINLAND	1997				
FRANCE	Jul-07				
GERMANY	1998				
GREECE	Jul-07				
HUNGARY	Jul-07				
ICELAND					
IRELAND	2005		2010-10	2010-10	
ITALY	Jul-07				
LATVIA	Jul-07				
LITHUANIA	Jul-07	2015-01	2013-01		
LUXEMBOURG	Jul-07				
MALTA					
NETHERLANDS	2004				
NORWAY	1995				
POLAND	Jul-07				
PORTUGAL	2006		2011-01	2010-01	2010-01
ROMANIA	Jul-07				
SLOVAK REPUBLIC	Jul-07	2012-12	2011-12		
SLOVENIA	Jul-07				
SPAIN	2003		2009-07	2009-07	2008-07
SWEDEN	1996				
UNITED KINGDOM ⁷	1990				


Price regulation :

	YES
	NO
	Closed market
	N.A.

XXXX-XX Scheduled date of price regulation removal

Changes between July 2008 and January 2010:

 End-user price regulation in open market segment removed between July 2008 and January 2010

 Segment closed in July 2008

⁷ There is some price regulation in Northern Ireland but it accounts for less than 3% of UK consumption - so this report covers the GB situation.

Electricity

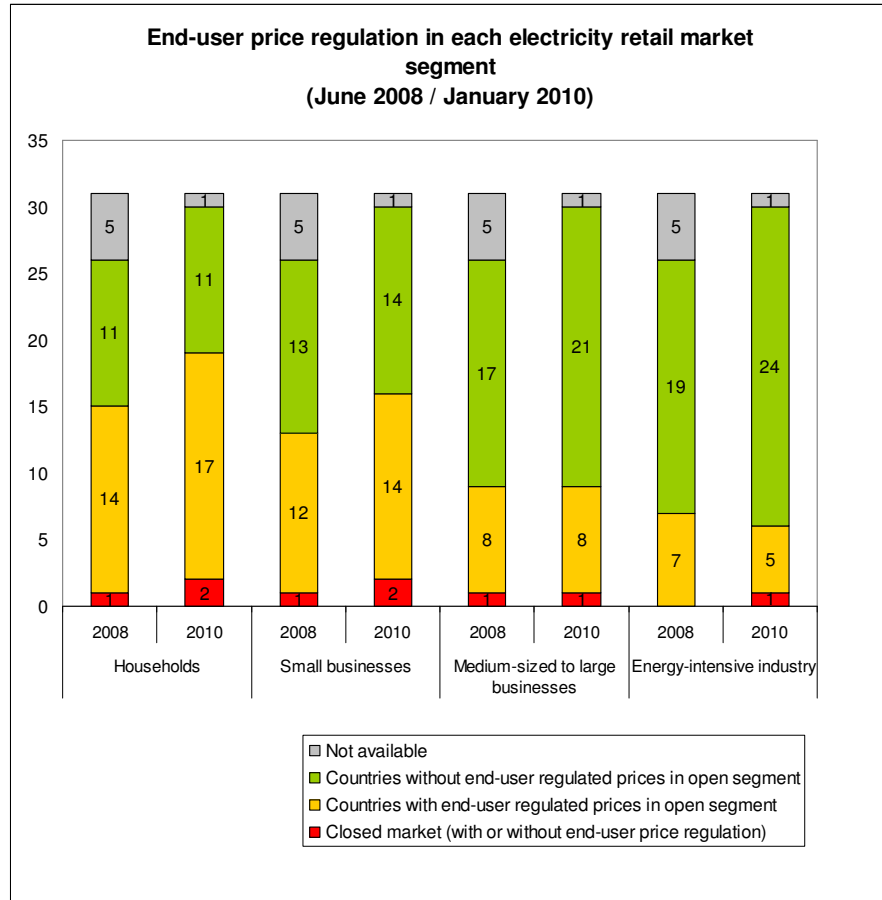
Table 3: Overview of end-user price regulation as of 1 January 2010

Electricity	Households	Small businesses	Medium-sized to large businesses	Energy-intensive industry
Number of countries without end-user regulated prices as of 1 January 2010	11 Austria Belgium Czech Republic Finland Germany Iceland Luxembourg Norway Slovenia Sweden United Kingdom	14 Austria Belgium Croatia Czech Republic Finland Germany Iceland Luxembourg Norway Poland Slovenia Spain Sweden United Kingdom	21 Austria Belgium Bulgaria Croatia Czech Republic Finland Germany Hungary Iceland Italy Latvia Lithuania Luxembourg Netherlands Norway Poland Slovak Republic Slovenia Spain Sweden United Kingdom	24 Austria Belgium Bulgaria Croatia Czech Republic Finland Germany Greece Hungary Ireland Iceland Italy Latvia Lithuania Luxembourg Netherlands Norway Poland Romania Slovak Republic Slovenia Spain Sweden United Kingdom
Number of countries with end-user regulated prices as of 1 January 2010	17 Bulgaria Croatia Cyprus Denmark France Greece Hungary Ireland Italy Latvia Lithuania Netherlands Poland Portugal Romania Slovak Republic Spain	14 Bulgaria Cyprus Denmark France Greece Hungary Ireland Italy Latvia Lithuania Netherlands Portugal Romania Slovak Republic	8 Cyprus Denmark Estonia France Greece Ireland Portugal Romania	5 Cyprus Denmark Estonia France Portugal
Number of countries with closed market segments as of 1 January 2010	2 Estonia Malta	2 Estonia Malta	1 Malta	1 Malta

Electricity

Table 3 shows that 17 out of 30 countries with open household market segments have regulated end-user prices, which constitutes two thirds of the responding countries with an open household market segment and price regulation in electricity. For open small business segments, there are still end-user regulated prices in 14 countries, which is half of the total number of responding countries. For medium-sized to large business customers there are end-user regulated prices in 8 countries and 5 countries for energy intensive industry.

Figure 1: Progress between July 2008 and January 2010



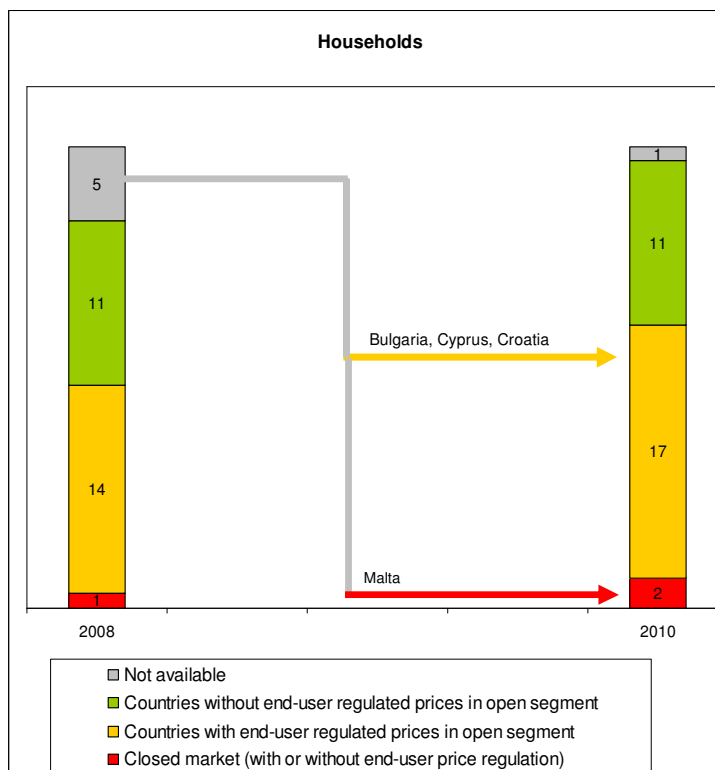
Overall Progress

Between July 2008 and January 2010, end-user regulated prices were removed in some of the segments in a few countries:

- In 1 country (Spain) for small businesses;
- In 2 countries (Lithuania and Spain) for medium-sized to large businesses;
- In 3 countries (Greece, Romania and Spain) for energy-intensive industries.

Electricity

Figure 2: Progress between July 2008 and January 2010 for households



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010.

Households

In the household segment, not many changes occurred between July 2008 and January 2010.

In July 2008:

The household market segment was closed only in 1 country (Estonia). In 14 countries (Denmark, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovak Republic and Spain), this market segment was open and applied end-user price regulation. In 11 countries (Austria, Belgium, Czech Republic, Finland, Germany, Iceland, Luxembourg, Norway, Slovenia, Sweden and the United Kingdom), this segment was open and did not apply end-user price regulation. 5 countries did not provide answers (Bulgaria, Cyprus, Croatia, Malta and Turkey).

As of 1 January 2010:

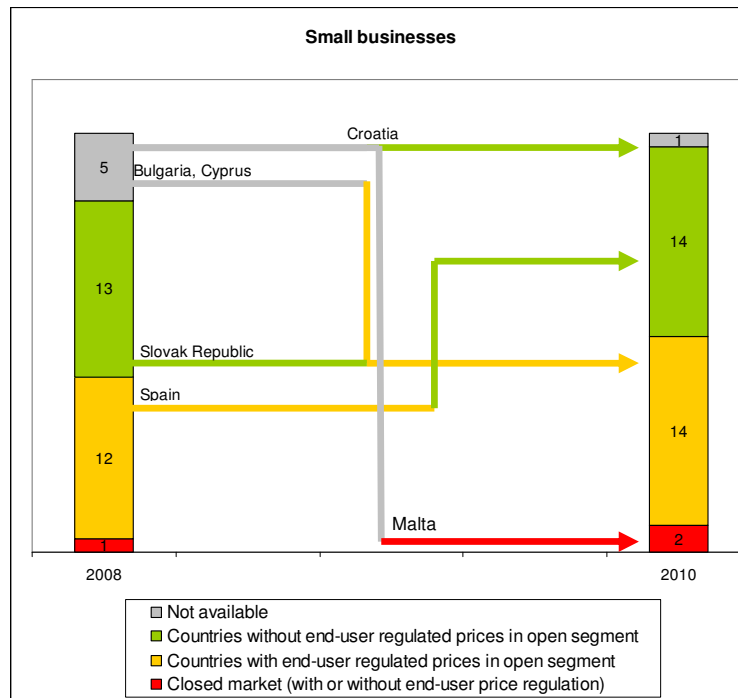
The household market segment is closed in 2 countries, Estonia and Malta. 17⁸ countries have open markets with end-user price regulation (Bulgaria, Croatia, Cyprus, Denmark, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal,

⁸ The apparent increase in regulated prices results from the new data availability for certain countries.

Electricity

Romania, Slovak Republic and Spain). In 11 countries (Austria, Belgium, Czech Republic, Finland, Germany, Iceland, Luxembourg, Norway, Slovenia, Sweden and the United Kingdom), this segment is open and does not apply end-user price regulation. Only 1 country did not provide answers (Turkey).

Figure 3: Progress between July 2008 and January 2010 for small businesses



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010.

Small Businesses

In the small businesses segment, between July 2008 and January 2010 some movements occurred. In 1 country, the Slovak Republic, price regulation was introduced on January 1, 2009 by a temporary Decision of the Ministry of Economy with the aim to create preconditions for gradual achievement of the market price level. Spain removed its end-user price regulation in this segment in July 2009.

In July 2008:

The small businesses market segment was closed in 1 country (Estonia). In 12 countries (Denmark, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Portugal, Romania and Spain), this segment was open and applied end-user price regulation. In 13 countries (Austria, Belgium, Czech Republic, Finland, Germany, Iceland, Luxembourg, Norway, Poland, Slovenia, Slovak Republic, Sweden and the United Kingdom) this segment was open and did not apply end-user price regulation. 5 countries did not provide answers (Bulgaria, Cyprus, Croatia, Malta and Turkey).

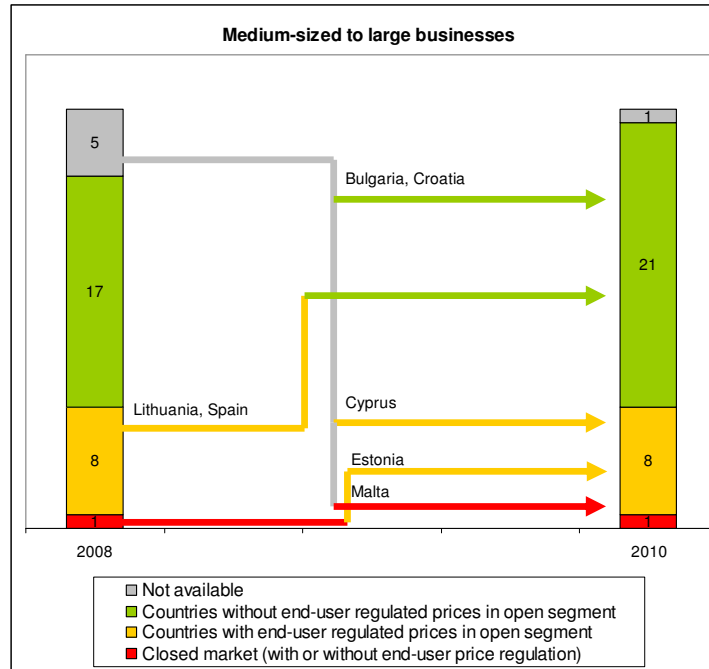
As of 1 January 2010:

The small businesses market segment is closed in 2 countries: Estonia and Malta. 14 countries have open markets with end-user price regulation (Bulgaria, Cyprus, Denmark,

Electricity

France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Portugal, Romania and Slovak Republic – cf. Footnote 8). In 14 countries (Austria, Belgium, Croatia, Czech Republic, Finland, Germany, Iceland, Luxembourg, Norway, Poland, Slovenia, Spain, Sweden and the United Kingdom), this segment is open and does not apply end-user price regulation. Only 1 country did not provide answers (Turkey).

Figure 4: Progress between July 2008 and January 2010 for medium-sized to large businesses



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010.

Medium-sized to large businesses

Between July 2008 and January 2010, in the medium-sized to large businesses segment, 2 countries removed their end-user regulated prices: Lithuania and Spain. Estonia for this segment also opened its market under end-user regulated prices.

In July 2008:

The medium-sized to large businesses market segment was closed in 1 country (Estonia). In 8 countries (Denmark, France, Greece, Ireland, Lithuania, Portugal, Romania and Spain), this segment was open and applied end-user price regulation. In 17 countries (Austria, Belgium, Czech Republic, Finland, Germany, Hungary, Iceland, Italy, Latvia, Luxembourg, the Netherlands, Norway, Poland, Slovak Republic, Slovenia, Sweden and the United Kingdom) this segment was open and did not apply end-user price regulation. 5 countries did not provide answers (Bulgaria, Cyprus, Croatia, Malta and Turkey).

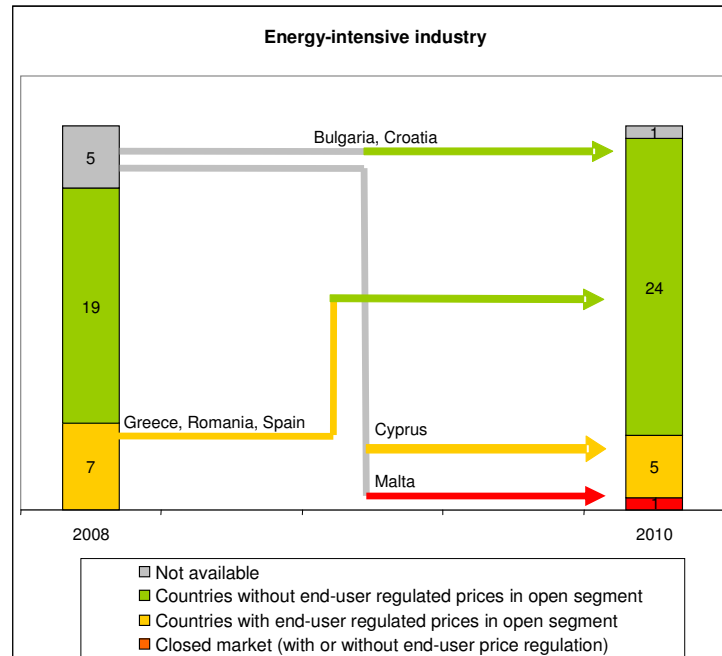
As of 1 January 2010:

The medium-sized to large businesses market segment is closed in only 1 country: Malta. In 8 countries (Cyprus, Denmark, Estonia, France, Greece, Ireland, Portugal and Romania), this segment is open and applies end-user price regulation. In 21 countries (Austria, Belgium, Bulgaria, Croatia, Czech Republic, Finland, Germany, Hungary, Iceland, Italy, Latvia,

Electricity

(Lithuania, Luxembourg, the Netherlands, Norway, Poland, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom) this segment is open and does not apply end-user price regulation. Only 1 country did not provide answers (Turkey).

Figure 5: Progress between July 2008 and January 2010 for energy-intensive industry



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010.

Energy-intensive industry

Between July 2008 and January 2010, 3 countries removed their end-user regulated prices in the energy-intensive industry segment: Greece, Romania and Spain.

In July 2008:

In 7 countries (Denmark, Estonia, France, Greece, Portugal, Romania and Spain), this segment was open and applied end-user price regulation. In 19 countries (Austria, Belgium, Czech Republic, Finland, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Slovak Republic, Slovenia, Sweden and the United Kingdom) this segment was open and did not apply end-user price regulation. 5 countries did not provide answers (Bulgaria, Cyprus, Croatia, Malta and Turkey).

As of 1 January 2010:

The energy-intensive industry segment is closed in 1 country: Malta. In 5 countries (Cyprus, Denmark, Estonia, France and Portugal), this segment is open and applies end-user price regulation. In 24 countries (Austria, Bulgaria, Belgium, Croatia, Czech Republic, Finland, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Romania, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom) this segment is open and did not apply end-user price regulation. Only 1 country did not provide answers (Turkey).

Electricity









2.2 Share of customers supplied at regulated prices

Regulators were asked to indicate, for each market segment, the percentage of electricity customers supplied at regulated prices as of 1 January 2010 in relation to the total number of customers in that segment.

Answers to this question were only sought from countries where end-user regulated prices still exist in at least on market segment (18 countries).

Table 4: Percentage of eligible customers supplied at regulated electricity prices as of 1 January 2010 compared to July 2008

	Households		Small businesses		Medium to large businesses		Energy Intensive industry	
	2008	2010	2008	2010	2008	2010	2008	2010
BULGARIA		100,0%		100,0%		98,0% ⁹		
CROATIA		100,0%						
CYPRUS		100,0%		100,0%		100,0%		100,0%
DENMARK	NA	94,0%	NA	95,0%	NA	NA	NA	NA
ESTONIA						100,0%	90,0%	100,0%
FRANCE	99,0%	96,0%	82,0%	83,0%	94,0%	94,0%	82,0%	82,0%
GREECE	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	
HUNGARY	100,0%	100,0%	NA	NA			32,0%	
IRELAND	99,7%	79,8%	65,0%	52,2%	45,0%	28,0%		
ITALY	99,7%	91,0%	79,2%	78,2%				
LATVIA	100,0%	99,0%	100,0%	99,0%				
LITHUANIA	100,0%	100,0%	100,0%	NA				
NETHERLANDS	100,0%	100,0%	100,0%	100,0%				
POLAND ¹⁰	100,0%	100,0%						
PORTUGAL	97,2%	92,0%	96,5%	88,0%	99,5%	39,0%	100,0%	62,0%
ROMANIA	100,0%	100,0%	99,7%	NA	87,5%	NA	79,2%	
SLOVAK REPUBLIC	100,0%	100,0%		100,0%				
SPAIN	92,0%	91,0%	65,0%		NA			

	> 95%		no end-user price regulation
	80% to 95%		countries with end-user price regulation, but no information available on the %
	50% to 80%		closed market
	< 50%		NA

⁹ In the Bulgarian market for the medium to large businesses segment, there are customers that are on the regulated part of the market, and others, mostly large businesses that are on the free market.

¹⁰ In Poland, where price regulation is limited to the activity of the default supplier (where a universal service obligation exists), 2 of 14 default suppliers (supplying 13,6% of total number of Polish households), didn't present their tariffs for regulator's approval and did not use regulated prices for their customers. The existence of the obligation to present tariffs for approval is subject to judicial review. However, these 2 suppliers' customers are included in the share of eligible customers supplied at regulated electricity prices, because no real progress in market liberalisation was seen.

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Only a limited number of customers, in general, have switched from regulated prices to free market retail prices. For most countries, the share of customers supplied with regulated prices is usually greater than 80% for most market segments. However, the share of customers supplied at regulated prices is often smaller for larger customers.

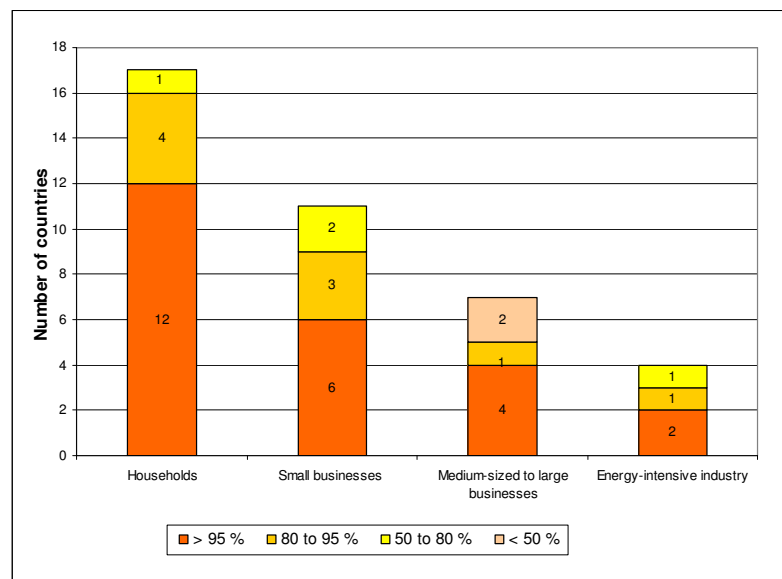
If we compare the year 2008 and the year 2010, there are countries in which progress (lower shares of customers supplied under regulated prices) can clearly be seen.

- **In Ireland**, the significant change in the number of domestic customers supplied at regulated tariffs between 2008 and the beginning of 2010 is due to customers switching away from the incumbent supplier following the entry of 2 suppliers into the domestic market on 18 February 2009. The incumbent supplier (ESB Customer Supply) has also lost market share in the small business and medium to large business markets in that period.

- **In Portugal**, the end-user regulated tariffs coexist with the eligibility for choosing the supplier for all consumer groups. Thus, the end-user regulated tariff price level is very important to determine consumption in the liberalised market. The regulated tariffs are published in December of each year to be applied by the last resort supplier during the next year (January to December). During 2008, the end-user tariff was set according to the forecast for the wholesale market price of 50€/MWh. As the oil crisis developed during the year, wholesale prices went up to 70€/MWh leaving no room for free market competition. This explains why so few consumers were supplied by market suppliers.

Then, for 2009 the regulator set end-user regulated prices to the level of the new forecast for the wholesale market price of 70€/MWh. Once again, the forecast was wrong and the wholesale prices during 2009 were around 44€/MWh. This fact encouraged market suppliers to become active selling electricity and the market share of the last resort supplier rapidly decreased in the large consumer groups.

Figure 6: Percentage of eligible customers supplied at regulated electricity prices as of 1 January 2010



Except: Turkey

No data available for some segments for: Denmark, Hungary, Lithuania and Romania.

Electricity

In general, not much progress can be seen between July 2008 and January 2010 across the different market segments. Only a limited number of customers have switched from regulated prices to free market retail prices. For most countries, the share of customers supplied with regulated prices is usually greater than 80% for most market segments, as seen in Figure 6.

Households

- In 12 countries, more than 95% of customers are supplied at a regulated price: Bulgaria, Croatia, Cyprus, France, Greece, Hungary, Latvia, Lithuania, the Netherlands Poland, Romania and Slovak Republic.
- In 4 countries, less than 95% but more than 80% of customers are supplied at a regulated price: Denmark, Italy, Portugal and Spain.
- In 1 country, between 50% and 80% of the customers are supplied under end-user regulated prices: Ireland.

Small businesses

- In 6 countries, more than 95% of customers are supplied at a regulated price: Bulgaria, Cyprus, Greece, Latvia, the Netherlands and Slovak Republic.
- In 3 countries, less than 95% but more than 80% of customers are supplied at a regulated price: Denmark, France and Portugal.
- In 2 countries, between 50% and 80% of customers are supplied at a regulated price: Ireland and Italy.

Medium-sized to large businesses

- In 4 countries, more than 95% of customers are supplied at a regulated price: Bulgaria, Cyprus, Estonia and Greece.
- In 1 country, less than 95% but more than 80% of customers are supplied at a regulated price: France.
- In 2 countries, less than 50% of customers are supplied at a regulated price: Ireland and Portugal.

Energy intensive industry

- In 2 countries, more than 95% of customers are supplied at a regulated price: Cyprus and Estonia.
- In 1 country, less than 95% but more than 80% of customers are supplied at a regulated price: France.
- In 1 country, between 50% and 80% of customers are supplied at a regulated price: Portugal.

Electricity

2.3 Roadmap towards a competitive market without end-user price regulation

This section deals with the number of countries that have adopted a roadmap, as of 1 January 2010, towards a competitive market without end-user price regulation, as advocated in ERGEG's 2007 Position Paper on end-user energy price regulation.

Regulators were asked whether a binding decision had been taken in order to remove end-user regulated prices. If yes, there were asked to precise the exact date when end-user price regulation is going to be removed and also to explain the roadmap towards the removal date. If a roadmap has not been established, regulators were asked to explain whether there are other developments in their countries on the way towards free markets without price regulation.

The following comprehensive table lists only the countries with end-user electricity price regulation in open market segments as of 1 January 2010.

Table 5: Overview of the adoption of a roadmap as of 1 January 2010

	YES
	NO
	NA

Country	Roadmap towards price regulation removal ¹¹	Date of removal	Developments towards a market without price regulation	Other developments?
BULGARIA	NO			
CROATIA	NO			
CYPRUS	NO			
DENMARK	NO			YES
ESTONIA	YES	2013-01 and 2010-04		
FRANCE	NO			YES
GREECE	NO			YES
HUNGARY	NO			
IRELAND	NO ¹²		YES	YES
ITALY	NO			YES
LATVIA	YES			
LITHUANIA	YES	2015-01, 2013-01, 2010-01		
NETHERLANDS	NO			
POLAND	YES			
PORTUGAL	NO	2011-01	YES	
ROMANIA	NO			
SLOVAK REPUBLIC	YES	2012-12 and 2011-12	YES	
SPAIN	NO			

¹¹ Countries with a binding decision to remove end-user price regulation.

¹² Ireland published a consultation on a roadmap for deregulation in December 2009 and adopted a decision for a roadmap in April 2010 for a complete removal of regulated prices from 1 October 2010. For more detailed information see page 28.

Electricity

In only 5 countries out of 18 countries answering this question (Estonia, Latvia, Lithuania, Poland and Slovak Republic) has a binding decision for a roadmap towards a price regulation removal been compiled.

- **In Estonia**, there has been a decision for a roadmap towards end-user price regulation removal. The date at which end-user price regulation is going to be removed depends on the market segment. For households and small businesses, end-user prices should be removed by January 2013. For medium-sized businesses and energy-intensive industry, end-user price removal was scheduled to take place in April 2010.

- **In Lithuania**, the date at which end-user price regulation is going to be removed depends on the market segment. For households, end-user price regulation is planned to be removed in January 2015. For small businesses end-user prices should be removed by January 2013 and for medium-sizes to large businesses end-user price regulation was removed on January 2010.

- **In Poland**, some changes in the energy law connected with implementation of the roadmap towards a removal of end-user price regulation proposed by the Regulator in 2008, have been adopted. The government elaborated the project of regulation to solve the problem of vulnerable customers. A large education and information campaign is already prepared and will start in mid-2010. A price calculator has been prepared. According to the position of the Polish regulator, there are some conditions to be met in order to achieve a free market without price regulation. Some barriers were removed, inter alia, by changes of Act on energy law prepared in 2009 and accepted at the beginning of this year but still many important obstacles to take a liable (responsible) decision on price liberalisation, like a lack of systemic solution for those who lose their supplier (supplier of last resort) exist.

- **In the Slovak Republic**, for households, the aim of the measure (Decision of the Economy Ministry from July 2008) is to create pre-conditions for gradual achievement of the market price level. The price increase will be structured: the highest protection rate shall be applied in the consumption group of up to 1500 kWh/year, lower protection rate shall be applied in the consumption group of up to 5000 kWh/year and the lowest protection rate shall be applied for the household consumers with the consumption of more than 5000 kWh/year. The market prices should be achieved between 2011-2012.

Regarding the small-businesses segment, market price is assumed to be achieved in 2011, while an intra-year increase by approximately 15% will be equally divided between the years 2009 and 2011.

2.4 Other developments

As of 1 January 2010, aside from the binding decisions to adopt a roadmap towards an end-user price regulation removal, in some countries there is also a plan to adopt a roadmap or other developments in order to remove end-user price regulation.

In 2 countries, there is a plan to adopt a roadmap (Ireland and Portugal) and there are also other developments towards a decision on end-user price removal in 4 countries (Denmark, France, Greece and Italy).

Electricity

Plan to adopt a roadmap:

- **In Ireland**, 2009 saw an exceptional increase in the number of customer switches in the electricity market. In response to rapidly changing competitive conditions, in December 2009 the Irish Regulator, CER, published its consultation (CER 09/189) on a Roadmap to deregulation. This document set out the competitive milestones that would signal the end to regulated end-user prices in the Irish retail market. The CER reviewed the relevant markets; domestic, small and medium businesses and large industrial & commercial customers. The CER has since published its decision, in April 2010 (CER 10/058), which concluded that all 3 business markets are sufficiently competitive to allow for the complete removal of regulated prices from 1 October 2010. The decision paper also set out the CER's decision with regard to the criteria for the deregulation of the domestic market: when incumbent market share is <60%, a minimum 10% market share for 2 independent competitors, 10% switching level and the removal of the brand from the incumbent supply company in advance of domestic market deregulation.

- **In Portugal**, the Portuguese Government approved an agreement declaring the 1 January 2011 as the date for end-user tariffs to end for low voltage customers with contracted power over 50kW. Further legislation is still missing in order to implement this decision.

Other developments:

- **In France**, the French government assembled a commission, chaired by Mr. Paul Champsaur, beginning of 2009, whose objective was to study possible new organisations of the French electricity market. The Champsaur commission report (dated April 2009) aims at finding ways of offering French consumers electricity at a competitive price, reflecting the advantages provided by France's nuclear fleet, while at the same time promoting fair competition in the French energy market. This process should allow the market to be more competitive by allowing the alternative suppliers to buy electricity from a nuclear source at affordable price.

In autumn 2009, the French government assured the European authorities that a law would implement the Champsaur commission's recommendations before the end of the year. As of 1 January 2010 no such bill establishing a new organisation of the French electricity market had yet been presented to the Parliament.

- **In Greece**, in the retail market, the low and medium voltage tariffs remain regulated. However, Greece is far along the process of prescribing the methodology for assessing the correct structure and fair level of retail prices according to internationally acceptable regulatory standards. The monopolistic tariff components have already been carefully estimated and the first bills that separately display charges for energy, distribution, transmission and PSO costs will reach final customers in 2010. By doing so, prospective market players will be in a position to better estimate the profit margin for the service they are targeting, while end-customers will have the opportunity to compare suppliers' offers. The important next step, on which Greece will focus during 2010, is to redesign the competitive components of the tariffs so as to remove distortions due to cross-subsidies, and link them to the production cost, eventually removing regulation.

- **In Italy**, there are also some ongoing developments towards free market prices. End-user regulated prices for households and small business are based on wholesale market prices. In order to make end-user prices more cost-reflective, time of day based prices have been

Electricity

introduced. Time of day based prices have been compulsory since 2008 for all non-household with smart-meters in service and will be compulsory for all households with smart-meters in service from 1 July 2010. The effect of this kind of price regulation would probably be to increase the number of switching to free market prices.

2.5 The regulation process: regulator's role

This section analyses the regulator's role within the regulation process. It is not only an important responsibility for the regulator to set or approve end-user regulated tariffs. In light of this report and the 2007 ERGEG Position Paper, it is also crucial to consider whether the decision to remove end-user regulated prices is within the scope of the regulator's powers.

Details are listed for single aspects of the regulator's fields of responsibility and a comprehensive table has been compiled to give an overview of the state of play in different countries as of 1 January 2010.

With regard to the role of the regulator, different processes in how prices are regulated exist within the countries. Some NRAs set the prices, others approve them, but we did not look into the details to distinguish them. Regarding the regulated price setting/approving, NRAs were asked who is responsible for setting/approving the prices and if this is not the regulator, then what is the role of the regulator (e.g. make proposals, give consultative opinions, make a report, others). NRAs were also asked if there is a decision to change the regulator's role in the field where the regulator does have a role.

With regard to the role of the regulator in the decision to remove price regulation, NRAs were asked which institution decides on the removal.

Regarding this issue, there are 2 countries: the Netherlands and Poland where the situation is different from that of the other countries.

In the Netherlands, energy suppliers are bound by law to submit all tariff proposals to Energiekamer (the NRA) in order for Energiekamer to check whether prices are reasonable. Energiekamer checks the reasonableness of the tariffs based on an undisclosed model which contains wholesale prices, operational and capital expenses and a certain reasonable margin. Based on its assessment that an energy supplier's specific tariff is unreasonably high, the Energiekamer has the authority to force that energy supplier to lower its proposed end-user tariffs. So far, Energiekamer has never exercised this power.

In Poland, the tariffication process is very similar to the Dutch one. If the Polish Regulator is not convinced that presented tariffs are justified, it can ask for a reduction, but at the end of the process it can approve the tariff or refuse it— in that case, the most lately accepted tariffs are in force.

Table 6 gives an overview of the role of the regulator in each country with regard to the setting/approving and removing of regulated prices.

Electricity

Table 6: The regulator's role in the electricity price regulation process as of 1 January 2010

ELECTRICITY: 18 countries with end-user regulated prices in at least one open market segment			
Countries	Who sets / approves end-user regulated prices?	Role of the regulator (if not setting/approving regulated prices)	Who decides on the removal of price regulation?
BULGARIA	Regulator		Government/Parliament
CROATIA	Government	gives a consultative opinion / recommendation and make a report	Government/Parliament
CYPRUS	Regulator		Regulator
DENMARK	Regulator		Government/Parliament
ESTONIA	Regulator		Government/Parliament
FRANCE	Ministry of Energy and Economy	gives a consultative opinion / recommendation	Government/Parliament
GREECE	Ministry of Energy and Environment	gives a consultative opinion / recommendation	Government/Parliament
HUNGARY	Regulator		Government/Parliament
IRELAND	Regulator		Regulator
ITALY	Regulator		Government/Parliament
LATVIA	Regulator		Government/Parliament
LITHUANIA	Regulator		Government/Parliament
NETHERLANDS	Regulator		Government/Parliament
POLAND	Regulator		Regulator
PORTUGAL	Regulator		Government/Parliament
ROMANIA	Regulator		Government/Parliament
SLOVAK REPUBLIC	Regulator		Other
SPAIN	Ministry of Industry	gives a consultative opinion/recommendation and make a report	Government/Parliament

Except: Turkey

Electricity

2.6 Reversibility

Regulators were asked whether customers who have switched to the market process are able to return to regulated prices (for the same site/metering point) as of 1 January 2010.

Table 7: Reversibility of regulated price vs. market price

Electricity	Households	Small Businesses	Medium-sized to large businesses	Energy-intensive industry
Reversibility	8 Croatia Hungary Ireland Italy Poland Portugal Romania Spain	5 Hungary Ireland Italy Portugal Romania	3 Ireland Portugal Romania	1 Portugal
Reversibility after a minimum fixed period of time	2 Denmark Latvia	2 Denmark Latvia	2 Denmark Estonia	2 Denmark Estonia
No reversibility	3 Cyprus France Lithuania	3 Cyprus France Lithuania	2 Cyprus France	2 Cyprus France
Not Applicable	3 Greece Netherlands Slovak Republic	3 Greece Netherlands Slovak Republic	1 Greece	0

Except: Bulgaria

There is no clear link between the share of customers supplied at regulated prices and the possibility or not to switch back to regulated prices after having chosen a retail market price (reversibility).

Regarding reversibility, Table 7 shows that in some countries reversibility is possible after a minimum fixed period of time.

- **In Denmark**, the minimum period of time for reversibility is an invoice month, i.e. 30 days.
- **In Estonia**, until 01.04.2010 the reversibility minimum period is 1 month. According to new amendments in Electricity Market Act (in force 27.01.2010) the reversibility for eligible customers is no longer available from 01.04.2010. With the new amendment, the electricity exchange market NPS Estlink price area will be created and all eligible customers (the eligibility level is the annual consumption over 2GW) can no longer buy the electricity with regulated price but with market price.
- **In France**, the case is different. Households can freely choose their supplier at market prices, and they can return to regulated price after a period of 6 months. But according to the

Electricity

law on reversibility, this is valid until 30 June 2010. As of 1 January 2010, if household customers decide to switch to a contract at market price, they can no more return to regulated prices (condition period of 6 months not satisfied). Those who have switched to contracts at market price before 1 January 2010 can benefit from reversibility and switch to a contract at regulated price any time until 30 June 2010. However, this law is being reviewed and decisions are awaited in order to extend this deadline for reversibility (beyond the date of 30 June 2010).

- **In Latvia**, the customers (households and small businesses) can freely switch to market prices and after a period of 2 months to return to regulated prices. This requirement has been defined in Regulations of Cabinet of Ministers on 21 July 2009.

Gas

3 Gas

Similarly as for electricity, regulators were asked the following questions regarding price regulation in their markets:

- Is there end-user energy price regulation in your gas system for the following market segments?
- If yes, for each segment, indicate the percentage of customers supplied at regulated prices on 1 January 2010, in relation to the total number of customers in that segment (if necessary, segments can be merged)
- If yes, please indicate the exact date when end-user price regulation is going to be removed?

3.1 End-user gas price regulation

Table 8 presents an overview of market opening and the existence of end-user price regulation in open markets for the different market segments in gas.

Market segments where regulated end-user prices still exist are shown in orange, whereas market segments without any regulated end-user price are depicted in green. If known, scheduled dates of removal of end-user price regulation are also portrayed in the table for each segment they apply for.

Another column was integrated indicating the final market opening date, i.e. the last date where a segment has been or will be opened.

The segments where end-user price regulation was removed between July 2008 and January 2010 are circled in orange.

The segments which were closed in July 2008 and are open in January 2010 are circled in red. Closed segments as of January 2010 are shown in red.

Gas

Table 8: Overview of market opening and price regulation in open gas market segments as of 1 January 2010




Country	Market opening	Price regulation on 1 January 2010			
	Final market opening date	Households	Small businesses	Medium-sized to large businesses	Energy-intensive industry
AUSTRIA	2002-10				
BELGIUM	2007-01				
BULGARIA					
CROATIA					
CZECH REPUBLIC	2007-01				
DENMARK	2004				
ESTONIA	2007-07	2009-07			
FRANCE	2007-07				
GERMANY	1998				
GREECE	2009 - 2030	2031-11	2031-11	2031-11	
HUNGARY	2007-07				
IRELAND	2007.07				
ITALY	2003-01				
LATVIA	2014-04				
LITHUANIA	2007-07				
LUXEMBOURG	2007-07				
NETHERLANDS	2004-07				
POLAND	2007-07				
PORTUGAL	2010-01				
ROMANIA	2008-07				
SLOVAK REPUBLIC	2007-07				
SLOVENIA	2007-07				
SPAIN	2003-01		2009-07	2009-07	
SWEDEN	2007-07				
UNITED KINGDOM	1998				

except: Turkey (NA), Finland (exempted from opening) ; except Cyprus, Iceland, Malta, Norway (no gas)

Price regulation :

	YES
	NO
	Closed market
	N.A.

Changes between July 2008 and January 2010:

	End-user price regulation in open market segment removed between
	July 2008 and January 2010
	Segment closed in July 2008

XXXX-XX Scheduled date of price regulation removal

According to the data given in Table 8 above, it is important to clarify the situation in Greece regarding their gas market where in 3 major areas the gas market is closed. Outside these 3 areas, the non-domestic customers are eligible and the market is open.

Gas

Table 9: Overview on end-user price regulation as of 1 January 2010

Gas	Households	Small businesses	Medium-sized to large businesses	Energy-intensive industry
Number of countries without end-user regulated prices as of 1 January 2010	9 Austria Belgium Czech Republic Estonia Germany Luxembourg Slovenia Sweden United Kingdom	13 Austria Belgium Croatia Czech Republic Estonia Germany Italy Luxembourg Slovak Republic Slovenia Spain Sweden United Kingdom	16 Austria Belgium Croatia Czech Republic Denmark Estonia Germany Hungary Italy Luxembourg Netherlands Slovak Republic Slovenia Spain Sweden United Kingdom	18 Austria Belgium Croatia Czech Republic Denmark Estonia Germany Greece Hungary Ireland Italy Luxembourg Netherlands Slovak Republic Slovenia Spain Sweden United Kingdom
Number of countries with end-user regulated prices as of 1 January 2010	15 Bulgaria Croatia Denmark France Greece Hungary Ireland Italy Lithuania Netherlands Poland Portugal Romania Slovak Republic Spain	11 Bulgaria Denmark France Greece Hungary Ireland Lithuania Netherlands Poland Portugal Romania	8 Bulgaria France Greece Ireland Lithuania Poland Portugal Romania	6 Bulgaria France Lithuania Poland Portugal Romania
Number of countries with closed market segments as of 1 January 2010	1 Latvia	1 Latvia	1 Latvia	1 Latvia

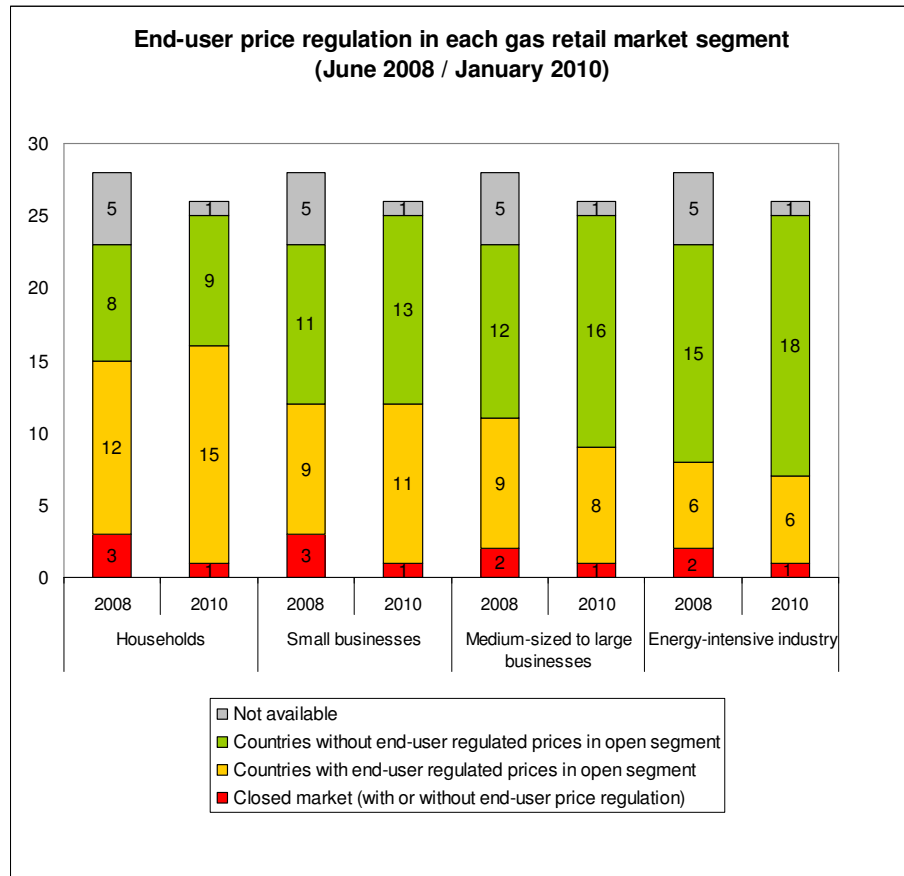
As shown in Table 9, in open household segments, there are still regulated end-user prices in 15 out of 25 countries, which means that more than half of the answering countries in gas have open markets for household customers with regulated end-user prices. In only 1 country, Latvia, the gas market is still closed to competition.

For the small businesses segment, there are regulated end-user prices in 11 countries.

For medium-sized to large businesses there are regulated prices in 8 countries. For energy intensive industries, there are regulated prices in 6 countries.

Gas

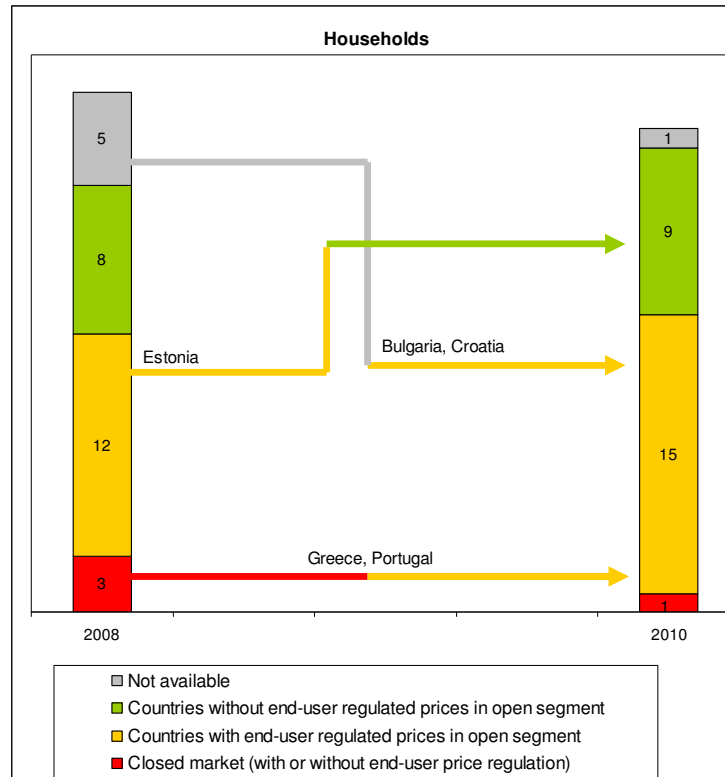
Figure 7: Progress between July 2008 and January 2010



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010. Cyprus, Iceland, Malta and Norway have no gas. Finland is exempted from market opening.

Gas

Figure 8: Progress between July 2008 and January 2010 for households



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010. Cyprus, Iceland, Malta and Norway have no gas. Finland is exempted from market opening.

Households

Between July 2008 and January 2010, 1 country, Estonia, removed end-user price regulation for the household segment. Two countries, Greece and Portugal opened their markets with end-user price regulation.

In July 2008:

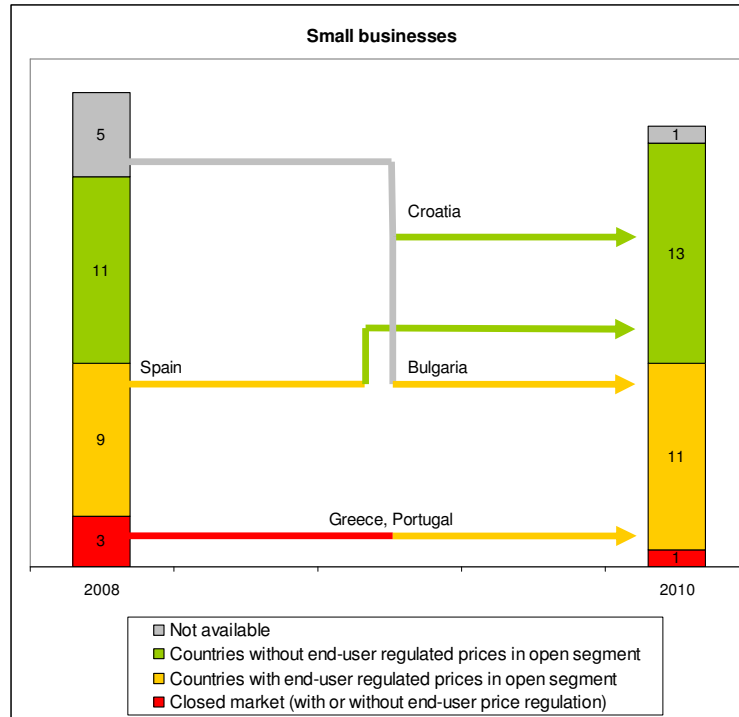
The household market segment was closed in only 3 countries (Greece, Latvia and Portugal). In 12 countries (Denmark, Estonia, France, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovak Republic and Spain), this market segment was open and applied end-user price regulation. In 8 countries (Austria, Belgium, Czech Republic, Germany, Luxembourg, Slovenia, Sweden and the United Kingdom), this market segment was open and did not apply end-user price regulation. 5 countries did not provide answers (Bulgaria, Finland, Croatia, Turkey and Iceland).

As of 1 January 2010:

The household market segment is closed in only 1 country (Latvia). In 15 countries (Bulgaria, Croatia, Denmark, France, Greece, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovak Republic and Spain), this market segment is open and applies end-user price regulation. In 9 countries (Austria, Belgium, Czech Republic, Estonia, Germany, Luxembourg, Slovenia, Sweden and the United Kingdom), this market segment is open and does not apply end-user price regulation. One country did not answer (Turkey).

Gas

Figure 9: Progress between July 2008 and January 2010 for small businesses



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010. Cyprus, Iceland, Malta and Norway have no gas. Finland is exempted from market opening.

Small businesses

Between July 2008 and January 2010, Spain is the only country that removed end-user price regulation for the small businesses segment. Two countries, Greece and Portugal, opened their market with end-user price regulation.

In July 2008:

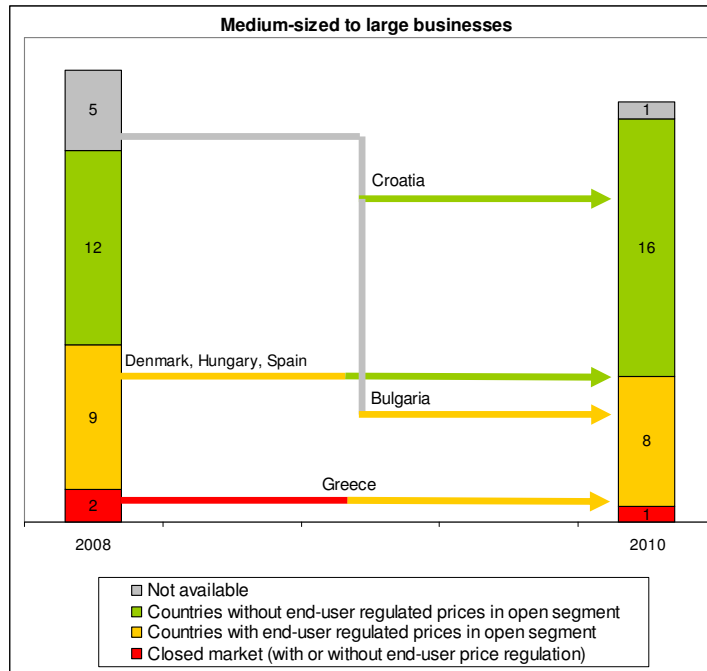
The small businesses segment was closed in 3 countries (Greece, Latvia and Portugal). In 9 countries (Denmark, France, Hungary, Ireland, Lithuania, the Netherlands, Poland, Romania and Spain), this market segment was open and applied end-user price regulation. In 11 countries (Austria, Belgium, Czech Republic, Estonia, Germany, Italy, Luxembourg, Slovak Republic, Slovenia, Sweden and the United Kingdom), this market segment was open and did not apply end-user price regulation. 5 countries did not provide answers (Bulgaria, Finland, Croatia, Turkey and Iceland).

As of 1 January 2010:

The small businesses segment is closed in 1 country (Latvia). In 11 countries (Bulgaria, Denmark, France, Greece, Hungary, Ireland, Lithuania, the Netherlands, Poland, Portugal and Romania), this market segment is open and applies end-user price regulation. In 13 countries (Austria, Belgium, Croatia, Czech Republic, Estonia, Germany, Italy, Luxembourg, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom), this market segment is open and does not apply end-user price regulation. One country did not answer (Turkey).

Gas

Figure 10: Progress between July 2008 and January 2010 for medium-sized to large businesses



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010. Cyprus, Iceland, Malta and Norway have no gas. Finland is exempted from market opening.

Medium-sized to large businesses

Between July 2008 and January 2010, 3 countries: Denmark¹³, Hungary and Spain removed end-user price regulation. For this segment, only 1 country, Greece, opened its market with end-user price regulation.

In July 2008:

The medium-sized to large businesses market segment was closed in 2 countries (Greece and Latvia). In 9 countries (Denmark, France, Hungary, Ireland, Lithuania, Poland, Portugal, Romania and Spain), this segment was open and applied end-user price regulation. In 13 countries (Austria, Belgium, Czech Republic, Estonia, Germany, Italy, Luxembourg, the Netherlands, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom) this segment was open and did not apply end-user price regulation. 5 countries did not provide answers (Bulgaria, Finland, Croatia, Turkey and Iceland).

As of 1 January 2010:

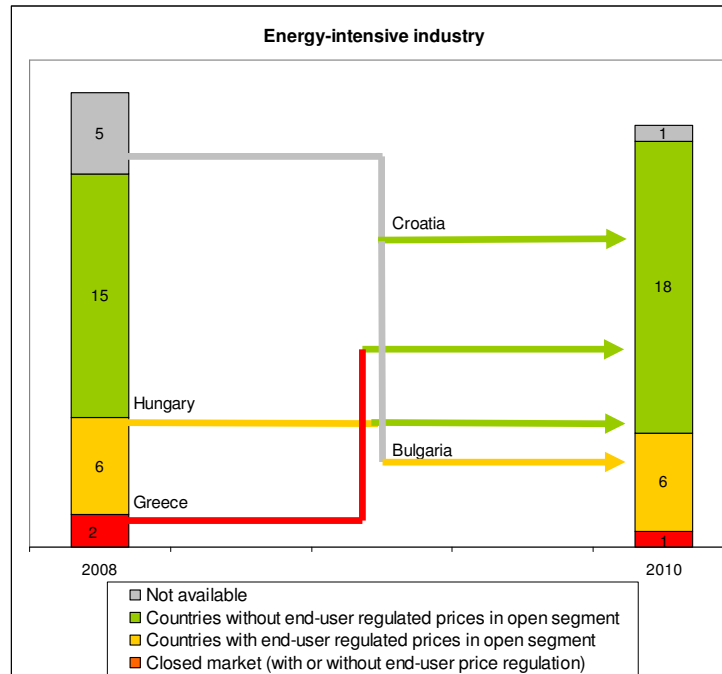
The medium-sized to large businesses market segment is closed in 1 country (Latvia). In 8 countries (Bulgaria, France, Greece, Ireland, Lithuania, Poland, Portugal and Romania), this

¹³ Technically, end user price regulation is still applicable for medium-sized to large businesses in Denmark. However, all customers in this segment have used their right to enter into commercial contracts on the liberalised market during the period 2008-2010, hence no customers are currently under price regulation in this segment.

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segment is open and applies end-user price regulation. In 16 countries (Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Germany, Hungary, Italy, Luxembourg, the Netherlands, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom) this segment is open and does not apply end-user price regulation. One country did not provide answers (Turkey).

Figure 11: Progress between July 2008 and January 2010 for energy-intensive industry



No data was available for Bulgaria, Croatia, Cyprus, Malta and Turkey for 2008 and Turkey for 2010. Cyprus, Iceland, Malta and Norway have no gas. Finland is exempted from market opening.

Energy-intensive industry

Between July 2008 and January 2010, progress has been seen in only 2 countries: Hungary removed their end-user price regulation and Greece opened their market under end-user price regulation.

In July 2008:

The energy-intensive industry market segment was closed in 2 countries (Greece and Latvia). In 6 countries (France, Hungary, Lithuania, Poland, Portugal and Romania), this market segment was open and applied end-user price regulation. In 15 countries (Austria, Belgium, Czech Republic, Denmark, Estonia, Germany, Ireland, Italy Luxembourg, the Netherlands, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom), this segment was open and did not apply end-user price regulation. 5 countries did not provide answers (Bulgaria, Finland, Croatia, Turkey and Iceland).

As of 1 January 2010:

The energy-intensive industry market segment is closed in 1 country (Latvia). In 6 countries (Bulgaria, France, Lithuania, Poland, Portugal and Romania), this market segment is open

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
and applies end-user price regulation. In 18 countries (Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom), this segment is open and does not apply end-user price regulation. One country did not provide answers (Turkey).

3.2 Share of customers supplied at regulated prices

Regulators were asked to indicate, for each market segment, the percentage of customers supplied at regulated prices as of 1 January 2010 in relation to the total number of customers in that segment. Answers to this question were only sought from countries where end-user regulated prices still exist in at least 1 market segment (16 countries). Table 10 shows the percentage of customers supplied at regulated prices, for 2010 and 2008 in order to compare any progress in the countries.

Table 10: Percentage of eligible customers supplied at regulated gas prices as of 1 January 2010 compared to July 2008

	Households		Small businesses		Medium to large businesses		Energy Intensive industry	
	2008	2010	2008	2010	2008	2010	2008	2010
BULGARIA		100,0%		100,0%		100,0%		100,0%
CROATIA		100,0%						
DENMARK	NA	95,0%	NA	95,0%	NA			
FRANCE ¹⁴	95,6%	89,0%	73,0%	64,0%	73,0%	64,0%	37,0%	29,0%
GREECE	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	
HUNGARY	100,0%	95,0%	99,0%	NA	95,0%		32,0%	
IRELAND	98,0%	97,9%	100,0%	75,0%	93,5%	42,0%		
ITALY ¹⁵	95,8%	NA		NA				
LITHUANIA	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%
NETHERLANDS	100,0%	100,0%	100,0%	100,0%				
POLAND	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%
PORTUGAL		100,0%		86,0%	100,0%	72,0% ¹⁶	100,0%	21,0% ¹⁵
ROMANIA	100,0%	99,9%	98,0%	99,8%	97,6%	97,4%	84,0%	26,3%
SLOVAK REPUBLIC	100,0%	100,0%						
SPAIN	51,0%	49,0%	55,0%		NA			

	> 95%		NA	countries with end-user price regulation, but no information available on the %
	80% to 95%			no end-user price regulation
	50% to 80%			closed market
	< 50%			NA

¹⁴ In France, market segmentation is different from the one proposed here, therefore the percentage of small businesses is aggregated with the one for medium to large size businesses.

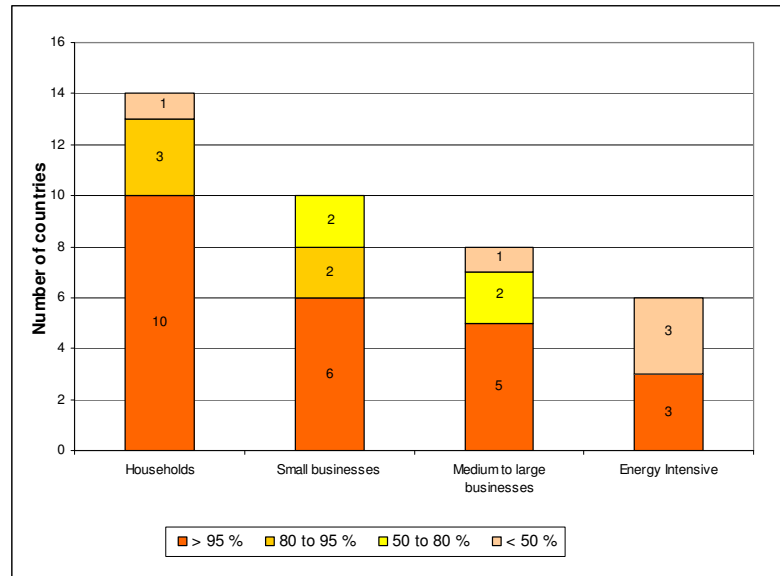
¹⁵ In Italy, since October 2006 there is no longer an obligation for suppliers to offer to non-households customers regulated prices, but gas contracts at regulated prices signed before October 2006 have remained valid until the expiration date or the withdrawal of one of the parties. October 2011 is the final expiration date these contracts.

¹⁶ The Portuguese Government approved a decree (published on 11 June 2010) ending the gas end-user regulated tariffs for consumers with an annual consumption over 10 000 m³, beginning on 1 July 2010. This market segment, which will be left without a last resort supplier, represents 88% of total end-users' consumption (30,7 TWh out of 34,7 TWh) and 0,5% of total end-users (5 600 consumers out of 1 170 000).

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Progress has been made by some countries regarding the share of customers supplied under regulated prices.

Figure 12: Percentage of eligible customers supplied at regulated gas prices as of 1 January 2010



Except: Turkey.
 Cyprus, Iceland, Malta and Norway have no gas. Finland is exempted from market opening.

Households

- In 10 countries, more than 95% of customers are supplied at a regulated price: Bulgaria, Croatia, Greece, Ireland, Lithuania, the Netherlands, Poland, Portugal, Romania and the Slovak Republic.
- In 3 countries, between 80% and 95% of household customers are supplied at regulated end-user prices: Denmark, France and Hungary.
- In 1 country, less than 50% of household customers are supplied at regulated end-user prices: Spain.

Small businesses

- In 6 countries, more than 95% of customers are supplied at a regulated price: Bulgaria, Greece, Lithuania, the Netherlands, Poland and Romania.
- In 2 countries, between 80% and 95% of customers are supplied at a regulated price: Denmark and Portugal.
- In 2 countries between 50% and 80% of customers are supplied at regulated price: Ireland and France.

Medium-sized to large businesses

- In 5 countries, more than 95% of customers are supplied at a regulated price: Bulgaria, Greece, Lithuania, Poland and Romania.

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- In 2 countries, between 50% and 80% of customers are supplied at a regulated price: France and Portugal.
- In 1 country, less than 50% of the customers are supplied at regulated price: Ireland.

Energy intensive industry

- In 3 countries, more than 95% of customers are supplied at a regulated price: Bulgaria, Lithuania and Poland.
- In 3 countries, less than 50% of customers are supplied at a regulated price: France, Portugal and Romania.

3.3 Roadmap towards a free market without end-user price regulation

This section deals with the number of countries, as of 1 January 2010, that have adopted a roadmap towards a competitive market without end-user price regulation, as was advocated in ERGEG's 2007 Position Paper on end-user energy price regulation.

The following comprehensive table lists only countries with end-user electricity price regulation in open market segments as of 1 January 2010.

If a roadmap has been adopted, it does not always concern all market segments.

Regulators were asked whether a roadmap has been adopted and what the content and timeframes of the roadmap are. If a roadmap has not been established, regulators were asked to explain whether there is a plan for one and if so what the expected date of its approval would be.

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Table 11: Overview of the adoption of a roadmap as of 1 January 2010

Country	Roadmap towards price regulation removal adopted ¹⁷	Date of removal	Developments towards a market without price regulation	Other developments?
CROATIA	NO			
DENMARK	NO			
FRANCE	NO			
GREECE	NO			
HUNGARY	YES	2010-07		
IRELAND	NO			
ITALY	NO			
LATVIA	NO			
LITHUANIA	NO			
NETHERLANDS	NO			
POLAND	NO		YES	
PORTUGAL	NO ¹⁸			YES
ROMANIA	NO			YES
SLOVAK REPUBLIC	NO			
SPAIN	NO			

	YES
	NO
	NA

In only 1 country, Hungary, is there a decision that end-user regulated prices will be removed. The date foreseen for this removal is July 2010.

3.4 Other developments

Aside from binding decisions to adopt a roadmap towards an end-user price regulation removal, in some countries there is also a plan to adopt a roadmap or other developments in order to remove end-user price regulation.

In 3 countries (Poland, Portugal and Romania), there is either a plan to adopt a roadmap or other developments towards end-user price removal.

- **In Poland**, work on a roadmap towards a market without end-user price regulation is in progress.

¹⁷ Countries with a binding decision to remove end-user price regulation.

¹⁸ The Portuguese Government approved a decree published in June 2010 regarding end-user price regulation removal from 1 July 2010.

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- **In Portugal**, the Portuguese Government approved a decree (published on 11 June 2010) ending the gas end-user regulated tariffs for consumers with an annual consumption over 10 000 m³, beginning on the 1 July 2010.

This market segment, which will be left without a last resort supplier, represents 88% of total end-users' consumption (30,7 TWh out of 34,7 TWh) and 0,5% of total end-users (5 600 consumers out of 1 170 000).

- **In Romania**, the Polish regulator, ANRE, intends to develop in the next period a study with an independent firm of consultancy regarding the impact of deregulation of non-household regulated prices.

3.5 The regulation process: regulator's role

This section analyses the regulator's role within the regulation process. It is not only an important responsibility for the regulator to set/approve end-user regulated tariffs. In light of this report and the 2007 ERGEG Position Paper, it is also crucial to consider whether the decision to remove end-user regulated prices is within the scope of the regulator's powers.

Details are listed for single aspects of the regulator's fields of responsibility and a comprehensive table has been compiled to give an overview of the state of play in different countries as of 1 January 2010.

With regard to the role of the regulator as previously explained for the electricity markets with the examples of the Netherlands and Poland, some NRAs set prices and some approve them, but this report does not go into further details for this issue. Regarding the regulator's role, NRAs were asked who is responsible for setting/approving the prices and if this is not the regulator, then what is the role of the regulator (e.g. make proposals, give consultative opinions, make a report, others).

With regard to the role of the regulator in the decision to remove price regulation, NRAs were asked which institution decides on the removal. If the regulator sets regulated prices, it does not automatically decide on their removal.

On the question of whether there is a decision to change the regulator's role regarding setting the end-user regulated prices, only 1 country, France, answered positively.

In France, after enforcement of the Decree (2010), the government will set the regulated prices formula for each provider after consultation with the regulator. The formula must reflect the total costs of each provider, especially the supply and non-supply costs. The formula must be published at least once a year and may vary, considering cost structure evolutions, between each publication.

Throughout the year, and until the publication of a new formula, the procedure of evolution for regulated prices has been simplified in the frame of the new Decree. When aiming to reflect the evolution of its supply costs, the provider will have to send its proposal to the regulator at least 20 days before the date of implementation. The regulator will then control the integrity of the proposal with the formula which has been approved and published by the

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government. The new end-user regulated prices can be applied after the provider received confirmation of validation from the regulator.

That is, the government checks the formula at least once a year, but no longer interferes with price evolutions that do not imply a change in cost structure and only result from supply cost variation. This gives the regulator more power, and makes the price evolutions more transparent.

Table 12 gives an overview of the role of the regulator in each country with regard to the setting/approving and removing of regulated prices.

Table 12: the regulator's role in the gas price regulation process as of 1 January 2010

GAS: 15 countries with end-user regulated prices in at least one open market segment			
Countries	Who sets (/ approves) end-user regulated prices?	Role of the regulator (if not setting/approving regulated prices)	Who decides on the removal of price regulation ?
BULGARIA	Regulator		Government
CROATIA	Government	gives a consultative opinion / makes a proposal	Government/Parliament
DENMARK	Regulator		Government/Parliament
FRANCE	Government	gives a consultative opinion / recommendation	Government/Parliament
GREECE	Data not available	gives a consultative opinion / recommendation	Government/Parliament
HUNGARY	Regulator		Government/Parliament
IRELAND	Regulator		Regulator
ITALY	Regulator		Government/Parliament
LITHUANIA	Regulator		Government/Parliament
NETHERLANDS	Regulator		Government/Parliament
POLAND	Regulator		Regulator
PORTUGAL	Regulator		Government/Parliament
ROMANIA	Regulator		Government/Parliament
SLOVAK REPUBLIC	Regulator		Other
SPAIN	Ministry of Industry	gives a consultative opinion/recommendation and make a report	Government/Parliament

Except Turkey

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3.6 Reversibility

Regulators were asked whether customers who have switched to the market process are able to return to regulated prices (for the same site/metering point) as of 1 January 2010.

Table 13: Reversibility of regulated price vs. market price

Electricity	Households	Small Businesses	Medium-sized to large businesses	Energy-intensive industry
Reversibility	6 Croatia Ireland Italy Poland Portugal Spain	2 Ireland Portugal	2 Ireland Portugal	1 Portugal
Reversibility after a minimum fixed period of time	3 Denmark Hungary Romania	2 Denmark Romania	1 Romania	1 Romania
No reversibility	2 Bulgaria France	4 Bulgaria France Hungary Poland	3 Bulgaria France Poland	3 Bulgaria France Poland
Not Applicable	4 Greece Lithuania Netherlands Slovak Republic	3 Greece Lithuania Netherlands	2 Greece Lithuania	1 Lithuania

There is no clear link between the share of customers supplied at regulated prices and the possibility or not to switch back to regulated prices after having chosen a retail market price (reversibility).

Regarding reversibility, Table 13 shows that in some countries reversibility is possible after a minimum fixed period of time.

- **In Denmark**, the minimum period of time for reversibility for households and small businesses, is invoice month, i.e. 30 days.

- **In Romania**, according to Romanian secondary legislation, any gas consumer has the right to reversibility, under the condition of notifying the supplier who has the obligation to supply him/her at regulated prices, with 45 days in advance. So, the minimum period before returning to regulated prices is 45 days.

Table 13 also shows that in some countries reversibility is not applicable.

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- **In the Slovak Republic**, within the Slovak market conditions, there is only 1 incumbent gas supplier for households, and since all households fall under price regulation, and no competition exists, the reversibility issue is not applicable for the Slovak gas market.

4 Conclusions

This report gives an overview of the situation in ERGEG member and observer countries as regards end-user price regulation and focuses on the questions of whether regulated prices still exist after market opening and whether there has been progress towards markets without regulated end-user prices. Price regulation is one indicator for market analysis but of course there are many other relevant indicators which have to be taken into account to obtain a full picture.¹⁹

ERGEG's 2007 Position Paper stated that regulated end-user prices distort competition and harm the development of retail markets, so they should be removed as soon as possible by creating a roadmap towards free markets.

Having this in mind, it can be said that fully open markets with well-functioning competition cannot in the long-term coexist with regulated end-user prices as covered by this report. However, the data in this report shows that the co-existence of regulated prices and market prices is still strong and only a few countries have created a roadmap towards free and competitive markets.

As of 1 January 2010, regulated end-user prices still exist in quite a large number of countries: 18 in electricity (out of 30 countries) and 15 in gas (out of 25 countries) on at least one of the various market segments – households, small businesses, medium-sized to large businesses and energy-intensive industry. Meanwhile 11 countries in electricity (out of 30) and 9 countries in gas (out of 25) have fully opened their markets without any price regulation.

Between 2008 and 2010, little progress regarding end-user price regulation removal can be seen in the various market segments. The small improvements noticed mainly concerns the medium to large businesses segment and the energy intensive industry segment.

In most of the countries with end-user regulated prices, the share of eligible customers supplied at regulated prices is more than 80%, for each segment considered, indicating a lack of competition in the retail market. This share is close to 100% for the household segment. This figure is often smaller for larger customers.

Although it was not covered in the survey, the reasons why customers do not switch from regulated prices to the free market could be e.g. lack of competitive offers, lower regulated prices than free market prices, no possibility to switch back to regulated prices, lack of confidence in the market or low information on market functioning.

¹⁹ ERGEG Draft GGP on indicators for retail market monitoring. Ref: E09-RMF-14-04, 16 April 2010
http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/OPEN%20PUBLIC%20CONSULTATIONS/GGP%20retail%20market%20monitoring/CD/E09-RMF-14-04_Draft%20GGP-IRMM_PC_16-Apr-10.pdf

As of 1 January 2010, 5 countries with price regulation have adopted a roadmap towards a competitive market without end-user price regulation in electricity; and 1 country in gas. It should be noted that these roadmaps in most cases do not concern all market segments with end-user regulated prices. In particular, household segments are often not covered. In addition, some roadmaps do not give a concrete removal date and time-schedule for regulated prices.

In more than two thirds of the countries, the regulator sets or approves end-user regulated prices. In approximately one fifth of the countries for electricity and one fourth of the countries for gas, the decision to remove end-user price regulation lies with the regulator. A general conclusion can be drawn showing that compared to 2008 there is not much improvement towards competitive energy-markets without price regulation within the EU. This is especially true for the households segment where still a high number of countries have price regulation. In addition, hardly any roadmaps towards the removal of price regulation are in place. This may be because the European Directives leave a lot of room for interpretation regarding price regulation for households. Indeed, a recent judgment of the Court of Justice of the European Union (Case 265/08, 20 April 2010) confirms that end-user price regulation, under certain restrictive conditions, can be, as a temporary measure, in compliance with the Directives.

As mentioned in ERGEG's 2007 Position Paper²⁰ and as confirmed by the Court of Justice of the European Union, in the long-term regulated end-user energy prices cannot coexist with well-functioning competition. ERGEG reiterates its call for roadmaps to phase out end-user regulated prices in the EU's Member States. ERGEG recognises that competition also requires careful oversight, to ensure that customers are treated fairly, get the best possible deal available and are empowered to exercise their right to choose on an open market. Regulated prices can not only distort the functioning of the competitive market, but can also hinder the goal of customer protection and participation. Whilst protecting vulnerable customers is also of particular importance, social measures with that aim should be in line with market principles.

ERGEG calls on all market participants to promote the efficient functioning of the European energy markets and to facilitate the development of competition in the energy consumer's interest.

²⁰ Ref. E07-CPR-10-03, 18 July 2007, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Customers/2007/E07-CPR-10-03_E-UPriceReg_0.pdf

ANNEX 1 – CEER and ERGEG

The Council of European Energy Regulators (CEER) is a not-for-profit association in which Europe's independent national regulators of electricity and gas voluntarily cooperate to protect consumers' interests and to facilitate the creation of a single, competitive, efficient and sustainable internal market for gas and electricity in Europe. CEER acts as a preparatory body for the European Regulators' Group for Electricity and Gas (ERGEG).

ERGEG is the European Commission's formal advisory group of energy regulators. ERGEG was established by the European Commission, in November 2003, to assist the Commission in creating a single-EU market for electricity and gas. ERGEG's members are the heads of the national energy regulatory authorities in the 27 EU Member States.

The work of the CEER and ERGEG is structured according to a number of working groups, composed of staff members of the national energy regulatory authorities. These working groups deal with different topics, according to their members' fields of expertise.

This report was prepared by the Customer Empowerment Task Force of the Customer Working Group.