

## A New Deal for energy consumers

### SUMMARY

On 15 July 2015, the European Commission adopted a Communication on Delivering a New Deal for energy consumers ('New Deal'), as part of the Summer Energy Package. The New Deal is one of several consumer-related actions envisaged in the Energy Union strategy, and is designed to inform future actions in this field, including proposed legislation.

The New Deal highlights the need for greater transparency around energy prices: wholesale and retail prices are diverging as taxes account for a growing share of energy bills, placing a disproportionate burden on household consumers. It emphasises the importance of easy switching between energy suppliers and calls for the phasing out of regulated retail prices, which discourage market competition and investment in infrastructure. The New Deal argues that greater energy efficiency is necessary, demand response among consumers should be facilitated, and community production initiatives encouraged. The Commission considers that rolling out smart meters across the EU is necessary to encourage greater demand response. Yet the precise cost savings for consumers from smart metering (and demand response in general) remain rather unclear, while smart metering has more positive effects when accompanied by incentives to change patterns of energy use (e.g. dynamic pricing). The New Deal calls for new measures to address vulnerable consumers and energy poverty in the EU, with reports by the Commission and European Parliament shedding light on these issues.

The New Deal seeks to encourage the development of smart homes and networks, which will require a range of new energy technologies. The growing use of ICT in smart grids has raised concerns about data protection and the risk of cyber hacking in smart grids. In past resolutions, the European Parliament expressed strong support for key ideas outlined in the New Deal, and has called for consumers to play a more active role in the energy transition.



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## The New Deal and Energy Union

On 15 July 2015, the European Commission adopted a Communication on [Delivering a New Deal for Energy Consumers](#) (hereafter 'New Deal'), one of four elements of the [Summer Energy Package](#). This also includes two legislative proposals, on energy efficiency labelling and reforming ETS after 2020, as well as the launch of a public consultation on developing a new energy market design. The New Deal is part of the [Energy Union](#) strategy, which foresees other measures with a strong consumer dimension: a Renewable Energy Directive for 2030 (2016-2017); Reviews of the Energy Efficiency Directive and Energy Performance of Buildings Directive (2016); legislation on a New Energy Market Design (2016); an EU Strategy for Heating and Cooling (2016); and a report on energy prices and costs (2016). The New Deal does not propose new legislation but its recommendations aim to feed into these planned initiatives.

The New Deal aims to link wholesale and retail markets more closely and fully exploit new technologies, allowing consumers to manage their consumption and participate actively in the shift from fossil fuels to renewable sources. Potential benefits include reduced energy consumption, cost savings, greater energy efficiency and a lowering of greenhouse gas emissions. Yet the obstacles to consumer participation can include a lack of detailed information on costs and consumption; growing charges and levies in energy bills; insufficient competition in many retail markets; obstacles for energy self-generation; and high entry barriers for new competitors in retail markets. The New Deal is founded on three key points (consumer empowerment; smart homes and networks; and data management and protection), which emerged from a [public consultation](#) on the retail energy market, organised by the Commission in early 2014.

## Energy consumers under EU legislation

Energy consumers are protected by a broad range of EU legislation on consumer policy (see EPRS analysis, [Consumer policy in the EU](#)) as well as specific EU energy legislation, primarily Directives 2009/72/EC and 2009/73/EC concerning common rules for the internal market in electricity and natural gas respectively. Other energy legislation establishing legal rights for consumers includes Directive 2012/27/EU on energy efficiency; Directive 2009/28/EC on renewable energy; Directive 2010/31/EU on the energy performance of buildings; and Directive 2010/30/EU on energy efficiency labelling. The Commission has summarised the ten main [European Energy Consumers' Rights](#) established under EU law:

1. Right to have your home connected to the local electricity network
2. Choice of supplier from full range of EU suppliers offering their service in your area
3. Easy and fast switch of supplier (changes to take place within three weeks of request)
4. Clear contract information and right of withdrawal
5. Accurate information on consumption (including competitively priced individual meters for electricity and gas in all new, or extensively renovated, buildings)
6. Information on how to use energy more efficiently (including the EU energy label) as well as the benefits of renewables to be provided by all energy suppliers
7. Vulnerable consumers to be identified and measures put in place to protect them
8. Easy resolution of complaints or disputes (including an independent out-of-court dispute settlement body and not only through legal channels)
9. Energy performance certificate for every home to buy or rent
10. Single national contact point for energy, consumer rights set out in national laws

## Consumer empowerment

### Energy costs and savings

The New Deal finds EU consumers spend an average 6.4% of their total consumption on energy costs, and argues that greater energy efficiency in new and existing buildings is the key to cutting consumer bills. Another way is to use more efficient appliances, and here the New Deal notes the importance of the proposed new regulation on [energy efficiency labelling](#). The Commission stresses that consumers should have free and frequent access to accurate information about their consumption levels, ideally through [smart meters](#) that would provide (near) real-time consumption data, enabling consumers to adjust their energy use in response to clear price signals.

In 2014, the Commission published a report on [Energy Prices and Costs in Europe](#). This found that wholesale electricity prices declined by 35-45% between 2008 and 2012, whereas gas prices did not change substantially. Yet over the same timeframe, household electricity prices rose 20% and household gas prices rose 15%. The report concluded that network costs and taxes represent a growing share of energy bills across the EU, fuelling a rise in household bills despite the decline in wholesale prices. Growing network costs and taxes are sometimes (but not always) used to finance decarbonisation measures and the transition to renewables. This illustrates a tension between the somewhat contradictory goals of increasing the share of renewables in national energy mixes and lowering the energy prices paid by consumers. [Quarterly reports on gas and electricity prices](#) from the European Commission suggest there has been some convergence in wholesale electricity and gas prices across the EU, but this is not reflected in the [final prices paid by consumers](#), which continue to vary widely between Member States. Quarterly reports also confirm that industrial consumers pay significantly less than household consumers for electricity and gas in virtually all EU Member States. Industrial consumers are often large-scale users of energy that may be subject to lower taxes or receive greater subsidies for energy use than households. In some Member States the difference is very large; industrial consumers pay two or even three times less for energy than household consumers. The New Deal does not, however, propose specific measures to deal with price divergence between household and industrial consumers, or between Member States.

### Price regulation and switching suppliers

The New Deal emphasises the right for consumers to switch suppliers easily, calls for an end to regulation of retail prices, and notes positive initiatives by national regulatory authorities to shorten switching times between energy suppliers. According to the [2014 Market Monitoring Report](#) by the Agency for the Cooperation of Energy Regulators (ACER) and the Council of European Energy Regulators (CEER), several Member States have imposed switching times on suppliers that are shorter than the three weeks required by EU legislation. In the New Deal, the Commission reiterates its criticism of regulated retail prices and points out that any social policy objectives can be better achieved through more targeted mechanisms directed at vulnerable consumers. The Commission notes it is actively engaging with Member States in phasing out prices regulated below cost levels, which it considers discourage investments in energy infrastructure, stifle competition, and limit new entrants into the energy market.

Although there is a clear trend towards loosening price regulation across the EU, the setting of market prices by public authorities remains a feature of many EU Member States. This can either take the form of full deregulation (i.e. prices set by the market

and not by the government or energy regulator) or partial deregulation (i.e. regulated consumer prices linked to changes in wholesale market prices). The 2014 ACER/CEER report finds that around 15 EU Member States regulated end-user prices for electricity and gas sectors in 2013, although some had recently made the transition to price deregulation (Estonia, Greece) or planned to do so in the coming years (Ireland, Romania). The ACER/CEER report noted that some Member States were still setting prices below cost levels, but others now link regulated prices closely with changes in wholesale markets (Italy, Portugal, Spain since 2014). Price regulation is still justified in some Member States as necessary to reduce the impact of (rising) energy prices on all consumers, including vulnerable ones at risk of energy poverty. A major shift towards market pricing in some Member States may need to be [accompanied by social policy mechanisms](#) targeting vulnerable consumers. Yet the costs of such social policies would be borne almost entirely by Member States, many of which face major fiscal constraints. No specific EU fund exists for the purpose of alleviating energy poverty.

The Commission argues that price deregulation brings clear benefits to retail energy markets, especially if switching between suppliers and access to information is facilitated by EU and national legislation. Competitive markets are typically linked to higher levels of consumer satisfaction and lower prices. However, comparing the [country profiles](#) of energy markets in the largest EU Member States indicates that the relationship between consumer satisfaction and market structures can be quite varied. Some retail markets with regulated prices show low consumer satisfaction (Italy, Spain, Poland), yet others with regulated prices display high levels of satisfaction (France). Some countries with high switching rates where energy prices are set by the market score below the EU average in terms of consumer satisfaction (United Kingdom). High switching rates may be indicative of a competitive market but might also hint at consumer dissatisfaction with existing suppliers. In Germany, energy prices are now set by the market but switching rates are low and consumer satisfaction remains high.

### **Demand response and energy efficiency**

Natural variations in the level of supply for some types of renewable energy (e.g. wind, solar), combined with strong variations in energy needs over time (e.g. night vs day, summer vs winter), can make it difficult to integrate renewable sources effectively into existing power grids. Achieving full integration will require the expansion and modernisation of existing infrastructure, as well as substantial back-up generating capacity (often derived from fossil fuels) to meet peak energy demand. If supply and demand were better balanced, less energy infrastructure would need to be built or maintained, and the quantity of back-up generation capacity could also be reduced.

According to the New Deal, two ways that consumers can help to reduce demand peaks are lower overall energy use and greater demand response (i.e. using energy when the price is lower or selling energy when the price is higher). To incentivise demand response, energy prices should vary between peak and off-peak periods according to supply and demand ('dynamic pricing'). Fixed pricing for energy provides few incentives for consumers to change their existing behaviour. Another aspect of demand response is decentralised electricity generation and storage, with consumers selling any surplus renewable energy they generate via the power grid. To foster demand-response measures, consumers need accurate and frequent information about the level and costs of their energy consumption, which can be provided through intelligent metering systems ('smart meters'). The Commission supports a wide-scale deployment of individual 'smart meters' for gas and electricity consumption to residential and

industrial customers, as envisaged under Annex 1 of both the 2009 Electricity and Gas Directives. This specifies that, by 2020, 80% of consumers should receive intelligent metering systems in those Member States where the cost-benefit analyses are positive. Crucially, these cost-benefit analyses are carried out by Member State authorities and communicated to the Commission, which scrutinises them afterwards. A 2014 Communication on [benchmarking smart meter deployment](#) found that a majority of Member States were proposing the large-scale deployment of smart electricity meters by 2020, with a few having largely completed the process (Italy, Sweden, Finland). Yet some Member States reached a negative or uncertain cost-benefit analysis for smart electricity meters, so proposed either to roll them out only for selected groups of consumers (e.g. Germany) or not at all. Support for smart gas meters in the EU is on the whole much lower, with only a minority of Member States proposing wide-scale deployment. Smart gas meters are likely to generate less demand response than smart electricity meters (especially where gas is used primarily for heating) and do rather less to integrate renewable energy sources, making their potential value less clear.

An EPRS briefing on [smart grids and metering in the EU](#) discusses these issues and highlights some other concerns. Based on experience from EU Member States that pioneered smart metering deployment, energy cost savings for some consumers could prove to be fairly low, and perhaps insufficient to generate strong demand response, especially if financial incentives for off-peak energy use remain limited. According to the 2014 benchmarking report, consumers will ultimately bear the bulk of the costs of smart metering, whether through direct installation costs or through increased bills to cover these costs. Yet any potential gains from smart metering are likely to be shared with energy producers. Energy companies in some Member States have encouraged the deployment of smart meters to gain a better understanding of flows and losses in the power grid, in order to manage it more effectively and reduce their operating costs.

#### **Opportunities for local communities and authorities**

The New Deal emphasises the importance of collective schemes and community initiatives, where local and regional authorities can play a key role in improving energy efficiency, increasing use of renewables and encouraging demand response. The [Covenant of Mayors](#) is identified as a key initiative and the Commission proposes to work with them in realising shared goals. [Community power](#) is a cross-national advocacy project that, inter alia, encourages policymakers in the EU to set legislative frameworks that foster the community production of renewable energy sources. The regional and local dimension of smart energy systems is the subject of a 2014 COST report on [Smart Energy Regions](#), which analyses the existing situation in 26 European states, including most EU Member States and some countries outside the EU.

#### **Vulnerable consumers and energy poverty**

The New Deal argues that energy efficiency improvements are the best long-term solution for energy poverty, which should be tackled in the framework of social security actions and not through price regulation. In 2010 the Commission issued a staff working paper on an [energy policy for consumers](#), which analysed energy poverty. The Commission estimated that energy bills were a significant financial burden for over 13% of the EU-27 population in 2008 (i.e. before the economic crisis had impacted), while 8% of the EU-27 population had fallen into arrears on their energy bills that year.

Dealing with energy poverty remains largely a Member State competence. The 2009 Electricity and Gas Directives simply require Member States to define the concept of vulnerable customers in national legislation and ensure there are safeguards to protect

them, such as the prohibition of electricity or gas disconnection at critical times. The [2014 ACER/CEER Market Monitoring Report](#) notes that 16 Member States have restrictions on disconnecting vulnerable electricity customers, and 11 have similar provisions for the gas sector, so many appear not to be fully compliant with the requirements of the Directives. Several Member States have social tariffs for selected groups of consumers, either as regulated prices or as a discount to the market price. A few Member States make fuel payments through the social security system (e.g. UK).

The European Commission and European Parliament have both commissioned in-depth studies on energy poverty, published in 2015. These studies agree that more standardised data and better monitoring of energy poverty and vulnerable consumers in the EU are necessary, and observe that the problem of energy poverty is concentrated in central and eastern Europe and to a significant extent in southern Europe, particularly in countries heavily affected by the economic crisis. The [Insight Energy policy report](#), prepared for the European Commission, finds that Member States have widely varying definitions of vulnerable consumer in their national legislation, and apply this category to very different shares of their population. This makes it difficult to compare the scale of the problem and coordinate policy actions across the EU. The study argues that the concept of vulnerable consumer is linked to, yet distinct from, the concept of energy poverty, so different metrics and policy actions may be required to address them. It finds that under a third of Member States recognise energy poverty at an official level, and only four countries have an objective definition based on economic criteria (UK, Ireland, France, Cyprus). The study identifies four key policy measures as necessary to overcome energy poverty: financial interventions; additional consumer protection; energy efficiency measures; and information provision. The [appendices](#) contain summaries of the situation in each EU Member State. The [European Parliament study on energy poverty](#) focuses on how the problem of energy poverty is addressed concretely in nine Member States (Bulgaria, France, Germany, Greece, Ireland, Italy, Spain, UK), compares respective definitions of energy poverty (where these exist), analyses existing energy and social legislation, and concludes with recommendations for the EU and its Member States.

The European Economic and Social Committee has issued two relevant opinions on the subject, [TEN/420 of 14 July 2010](#) on the impact of liberalisation and the economic crisis on energy poverty; and [TEN/516 of 18 September 2013](#) on coordinated measures to prevent and combat energy poverty. These make a number of recommendations, including the need for more objective definitions of energy poverty, more harmonised indicators and statistics, and an improved integration of poverty issues in EU energy policy actions. TEN/516 goes further by proposing the establishment of a European poverty observatory that would define and collect energy poverty indicators and draw up recommendations for Member State action, and proposes the creation of a European energy solidarity fund.

### Smart homes and networks

Smart technologies are presented in the New Deal as a way to encourage greater consumer involvement in the retail market, facilitate dynamic pricing and foster demand response. The longer term objective is to link smart metering systems with smart appliances that can automatically adjust their energy use according to price signals. Smart homes would have capacity for decentralised power generation through renewable sources (e.g. solar panels), and consumers would sell any surplus energy via

the smart grid (the concept of 'prosumers'). The New Deal considers that sustained EU research spending on energy technologies is essential to achieving this goal yet is unclear about the timeframe for developing this vision, and gives little indication as to how the EU and its Member States might cover the high costs required to fully integrate renewable sources and self-generation capacity into existing power grids. The [variable supply](#) from some types of renewable energy, as well as the subsidies required to incentivise their development, can impose high costs on other actors in the energy market. This includes consumers, distribution-system operators, as well as producers of energy from non-renewable sources. Potential losses for energy producers may need to be compensated (especially if their generation capacity is needed to meet peak demand), while some types of consumers may struggle to pay higher bills. The divergence between wholesale and retail prices is already a problem in the EU (see page 3 above).

### Data protection and privacy

Data management and protection are particularly sensitive issues in light of the continuing advances in energy technologies and the potential for wide-scale deployment of smart metering. This will inevitably increase data flows and require greater integration of ICT in energy systems. According to the New Deal, data collection for smart meters should let consumers grant access only to designated third parties, and all entities managing data access should be neutral. But the Commission does not propose a single model for data handling, recognising variations between entities for data management as well as differences between Member State legislative frameworks.

Smart grids face a particular set of security challenges, including the concrete risk of cyber-hacking, analysed in a 2015 [report](#) by the US Congressional Research Service. Smart meters represent a diffuse entry point for hackers wanting to access the power grid, [raising concerns](#) about the effectiveness of existing safeguards in the EU and potentially increasing the longer-run costs associated with smart grids. In 2014 the Commission adopted a [recommendation](#) providing guidance to Member States and industry on how to carry out an effective impact assessment of data protection. ENISA, the EU Agency for Network and Information Security, has also made several [recommendations](#) on how to improve security of smart grids. As part of the Digital Single Market Strategy, the Commission is to propose a European 'Free flow of data initiative' in 2016, which will have direct relevance for ownership, interoperability, use of and access to data in energy systems. Yet these measures are unlikely to address all concerns about privacy, data protection and the growing use of ICT in smart grids.

### Views of stakeholders

The consumers' association, BEUC, [supports](#) the emphasis on consumers in the New Deal and urges the Commission to follow this up with more concrete proposals. The CEER issued a [statement](#) on the New Deal that calls for swift actions to ensure that Member States fully implement the [Third Energy Package](#) and better link wholesale and retail markets. ESMIG, an organisation representing smart energy providers in the EU, [supports](#) the approach taken in the New Deal, emphasising the importance of greater consumer involvement in retail markets. Eurelectric, which represents the electricity industry, [backs](#) the Commission initiative and urges price regulation in energy markets to be phased out. Few stakeholders are critical about the New Deal document *per se*, but many of its key recommendations are heavily debated (e.g. genuine potential for

demand response and self-generation among consumers; value to energy consumers of smart metering and ICT; costs and benefits of expanding renewable energy supplies).

### Positions of the European Parliament

The EP resolution of 19 June 2008, [Towards a European Charter on the Rights of Energy Consumers](#), is broadly consistent with Commission views on energy consumer policy. It places considerable emphasis on protecting vulnerable consumers and ensuring universal access to energy, calls for more transparency on energy prices and easier switching, and asks that disconnection of supply be used only as a last resort.

Its resolution of 10 September 2013 on [making the internal energy market work](#) calls for a more consumer-oriented market with smart technologies that encourage demand response and self-generation. It calls on Member States to restrain price regulation but also highlights the divergence between wholesale and retail prices, and notes that 'national markets fall short of satisfying the needs and expectations of consumers'.

Parliament's 4 February 2014 resolution on the [local and regional consequences of the development of smart grids](#) advocates a framework to develop Smart Energy Systems where regional and local authorities can support more active consumers, for example through initiatives on community production of renewable energy.

The EP resolution of 15 April 2014 on [protection of consumers in utilities services](#) criticises restrictive conditions and complex procedures making it difficult in practice to change energy provider, calls for greater transparency and information on prices, and indicates consumers should decide whether they want to install smart meters.

### Main references

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