

Document officer: JSM
Secretary: CHA/HGB
Case no.: s2016-867
Document no.: d2016-17635-13.0
2. December 2016

Winter package - Top 5 most important Retail Market issues

The retail market is traditionally regulated mainly at national level. However, as electricity suppliers and increasingly other actors in the electricity sector (e.g. aggregators), operate on several markets, increased harmonization of retail market regulation is relevant to consider.

The five Retail Market priority issues below follow at large from the Commissions proposed revision of the Electricity Directive (3rd Directive) in the Winter Package. Included is also the views of the Danish Energy Association on these initiatives.

1. Billing¹

In the winter package almost all provisions from the Energy Efficiency Directive and the 3rd electricity package on billing and billing information are kept and merged in the revised Electricity Directive.

The merged provisions include a list of minimum requirements for billing and billing information e.g. (a) price to pay, (b) energy consumption for billing period, (c) name of supplier, (d) contact details of supplier incl. consumer support hotline, (e) tariff name, (f) duration of the contract + date of end of contract + deadline for sending an advance notice of cancellation if fixed contract + length of advance notice period for contracts of indeterminate duration.

Further, where appropriate, the following info should be prominently displayed in or with bills and periodical settlement bills: (a) current actual prices and actual consumption of energy, (b) comparisons of customers' current energy consumption with consumption for the same period in the previous year in graphic form, (c) contact information for consumer organisations, energy agencies or similar bodies

Where a breakdown of price is presented in bills, Member States shall ensure that the European Commission's definitions of the 3 main components (energy & supply / network / taxes, fees, levies and charges) are used

¹ Electricity Directive - article 17 + annex II

Further the proposal requires that final customers with smart meters shall have the possibility of easy access to complementary information on historical consumption. And finally there is a requirement of disclosure of energy sources.

The Danish Energy Association believes that electricity bills should be as simple as possible. Over regulation of bills could limit the room for suppliers to diversify products thus creating a barrier to competition. While over regulation of bills at national level is a well-known issue, the proposal stops short of proposing any tangible solution to tackle the issue. In addition the potential of innovative forms of communication through digital technologies is not sufficiently addressed.

It is unclear what is meant by bill and billing information. There is a need to further stress the distinction between a bill (consumption + price to pay) and billing/other information (which could be provided in many different forms (paper, apps, email, personal webpage etc.) depending on consumers need.

2. Common framework of data management²

The Commission proposes to establish common rules for data management. Member states are obliged to specify who may have access to data of the final customer with the customer's explicit consent. Data in this context includes metering and consumption data and data required for switching and the parties potentially gaining access to these data are customers, suppliers, TSOs, DSOs, aggregators etc.

The parties granted access to the above mentioned data shall gain access to the data simultaneously in a non-discriminatory manner and under clear and equal terms.

Member States shall authorize/certify the parties managing data, and there is no specific data model recommended. According to the proposal regulated entities which provide data services cannot gain profit from that activity, and no additional costs can be charged for from final customers.

Member States are required to ensure that market participants apply a common European data format and non-discriminatory and transparent procedures for accessing the data. Such common European data format shall be determined by the Commission by means of an implementing act

The Danish Energy Association supports the purpose behind the proposal but remain concerned about the introduction of a common European data format. While this could underpin a market developing for aggregators it should not be introduced before a proper impact analysis has been carried out (pros, cons, costs).

3. End user energy prices³

The Commission seeks to ensure that the retail price paid by the electricity customer is market based rather than the result of regulatory or political decisions.

² Electricity Directive - article 22,23,33

³ Electricity Directive - article 4

A derogation is however provided for Vulnerable Customers (VC) for a period of up to 3 years. After that, Member States shall in principle ensure the protection of VC in a targeted manner by other means than public interventions in the price-setting for the supply of electricity.

The Danish Energy Association supports the proposal of deregulating the end user energy prices. Furthermore, the derogation for vulnerable customers allows for reasonable flexibility for member states. Prices should be market driven and not regulated by national regulators thereby hampering competition. See also ACER's annual market reports 2016

4. Switching fees⁴

The proposal establishes a right for customers to require switching to take place within 3 weeks. Unless the customer terminates his/her contract before its maturity, switching shall happen without any fee.

Fees in the context of termination of a running contract may only be charged if customers receive a demonstrable advantage + they shall not exceed the direct economic loss to the supplier of the customer terminating the contract

The Danish Energy Association supports this proposal as it sends an important signal to the market that switching should happen in a swift and smooth way for the customer in order to stimulate competition. Further the proposal protects the customer against penalizing switching fees that could prevent the customer from switching and thus creating a barrier to competition. Finally the proposal allows suppliers to cover losses stemming from customers terminating their contract before it's expiry date.

5. Aggregators⁵

The European Commission seeks to create better market access for aggregators to increase the uptake of demand response services.

Firstly, an aggregator is defined as a market participant that combines multiple customer loads or supplied electricity for sale, for purchase or auction in any organised energy market. An independent aggregator is an aggregator that is not affiliated to a supplier or any other market participant

Member States are to ensure that, where a customer wishes to conclude a contract with an aggregator, such engagement shall not require the consent of the customer's electricity supplier. National regulatory frameworks shall ensure (a) the right for each aggregator to enter the market without consent from other market participants, (b) transparent rules clearly assigning roles and responsibilities to all market participants exist, (c) transparent rules and procedures for data exchange between market participants that ensure easy access to data on equal and non-discriminatory terms while fully protecting commercial data, (d) aggregators shall not be required to pay compensation to suppliers or generators; (e) a conflict resolution mechanism between market participants.

⁴ Electricity Directive Articles 2 (13,14),11

⁵ Electricity Directive Articles 2(15,16),12

To ensure that balancing costs and benefits induced by aggregators are fairly assigned to market participants member states may exceptionally allow compensation payments between aggregators and balancing responsible parties - to be approved by national regulatory authorities and monitored by ACER

The Danish Energy Association finds that aggregators should be welcomed at the electricity market as actors potentially activating demand side flexibility. However, it is important that aggregators provide compensation to balancing responsible parties (suppliers) for unfair costs stemming from pooling and selling flexible consumption. Thus, it is important to have a level playing field and not give special rights to single parties at the expenses of others in the market.