

Workshop: “Designing a Consumer Code for New Energy Consumers”
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“The new energy consumer. Example from Belgium”
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First of all, I would like to warmly thank the National Energy Ombudsmen Network for its kind invitation.

I am working for the “**Réseau wallon pour l'accès durable à l'énergie**” (RWADE), a network gathering social, environmental and anti-poverty organizations. This network aims to advocate for the right to accessible and sustainable energy for every citizen. Thanks to field observations (collected during social workers trainings, activities for citizens and forums ...), the network has built a solid and wide expertise in the energy sector since its creation in 2004.

Like I said, our goal is to work towards the effectiveness of an accessible and sustainable energy for everyone. We therefore pay special attention to people facing poverty and difficult living conditions. We are working for and with households, not for consumers like businesses or industry.

I would like to start with an observation on the position and value currently granted to consumers by the Belgian energy policy governing the market. Then, I am going to shortly expose a few examples of obstacles impeding consumer participation in the market.

1. Position and value of consumers in the market

RWADE believes that the place given by the current energy policies to consumers is too small, in two ways. Firstly, the content of these policies should be more centred on consumers' real needs. Secondly, consumers should be allowed to actively participate in the elaboration and evaluation of these public policies. Even the consumer representatives find it difficult to make their voice heard and to build an expertise against market players. Those representatives are often seen as “facilitators”, whose job would be to work towards the consumer's acceptance of decisions taken by market players.

We believe that the relationship between consumers and the market players should be more regulated, in order to achieve balance. This unbalanced trade relationship creates difficulties for many consumers, not only for the most vulnerable ones.

How to achieve better regulation of the relationship? By giving priority to reasonable payment plans taking into account the consumers' situations, by limiting or prohibiting the door-to-door selling, through the preparation of a unique and accessible/understandable invoice template, by forbidding all kind of penalties when switching supplier, etc.

2. Problems faced by consumers impeding them from fully participating in the market

- The right to switch supplier and energy contract: the Belgian case –difficulty in choosing the best offer

In Belgium, a very recent study carried out by CREG¹, the national regulator, demonstrates that consumers rarely change supplier for a better offer and even more rarely for the best offer on the market. In fact, market share of the 10 most expensive products amounts to 63%, while the 10 cheapest products only represent 3% market share. As far as natural gas is concerned, we are talking about 44% and 5%, respectively.

The regulator assumes that consumers lack a comprehensive knowledge about the market offers (and about the complexity of the different price formulae) or that other factors than price explain the consumers' choices. The regulator underlines that a vast majority of consumers have a **huge potential for savings** (by changing supplier and by changing product by the same supplier) and that authorities (regulator, local authorities) should better inform consumers.

It is true that, if an appropriate choice adapted to the consumer profile is a key element to lower the electricity and gas bill, it is still too difficult to compare suppliers' prices. If 3% of Belgian consumers manage to get the best deal and therefore benefit from liberalized market, we cannot draw the same conclusion for all consumers, taken collectively.

Even if consumers are aware of their right to switch supplier and energy contract, the CREG's study demonstrates that it isn't enough. The switch may be quick, reliable and technically easy but it is still too difficult for consumers to find the best offer.

Why?

⇒ **Consumers lack comprehensive and clear information:**

Our daily work shows that suppliers often advertise **their most expensive products** and sometimes use **misleading advertisement** (for example: In November and December, a supplier promised to provide electricity for free during the whole winter. We decided to complain about it because, according to the applicable conditions, the consumer wasn't really entitled to use electricity free of charge but could only benefit from a discount).

Furthermore, we believe that **door-to-door selling** prevents consumers from comparing the different offers.

Consumers should actually always have the opportunity to compare the different suppliers' products and services in order to freely choose the offer that really matches their particular needs and profile. Yet, when a person is approached by door-to-door sellers, only one supplier or offer is presented. It is therefore difficult for the person, who is put under pressure to sign a contract immediately, to make an informed choice, as they lack necessary information to make this choice. Sometimes, sellers increase consumers' confusion by comparing prices with and without taxes or without giving all the necessary information to make an informed choice.

We were informed by social workers and consumers themselves about numerous unfair practices. For example, sellers introduce themselves as employees of a distribution system operator, saying they're coming to repair the meter or to consult the meter reading. The Flemish regulator, in January 2016, published a press release having been informed about cases in which sellers presented

¹ <http://www.creg.info/pdf/Etudes/F1496FR.pdf>

themselves as the regulator's employees. Some other sellers made elderly people believe they would have to change all their installation if they didn't change supplier. We even heard about sellers pretending that changing supplier would protect consumers from blackout.

If Belgian laws regulate door-to-door selling and lay down binding obligations for sellers and their subcontractors, practice shows that the applicable law and code of conduct aren't sufficient to protect consumers. It is still very hard for victims of unfair trade practices to provide evidence.

European law² prevents Member States from prohibiting door-to-door selling. Yet, according to the RWADE members, it is necessary to end this practice or at least to limit it strictly. Solutions were found by Member States, like United Kingdom, where the national regulator imposes heavy fines on suppliers who do so. At the same time, consumers were informed on their right to lodge complaints. British suppliers therefore decided to end door-to-door selling.

We believe that it is necessary to enhance consumer protection against unfair trade practices. With other organizations, RWADE is going to carry out a public campaign in a few weeks to call for the limitation of door-to-door selling, by offering stickers (claiming « No to door-to-door sales ») to consumers, designed to be placed on their mailbox or close to their doorbell. The purpose is to make them aware of their right to refuse the practice.

Another problem consumers face when **they use comparison tools is that these tools only compare the offers on the market**. Consumers often forget to compare the best price obtained with the price they are currently paying for their energy.

Furthermore, in Wallonia, it is still **difficult to access comparable information on contractual quality and on customer satisfaction**, even with the help of independent and verified comparison tools.

When this kind of information exists, consumers aren't aware of its existence. The Wallonian regulator's website only compares a few elements, which are the amount of time taken to send invoices, to refund a consumer, to answer consumers' questions and the accessibility to the information service.

As far as the comparison of the contractual conditions is concerned, our service is currently working on it, to provide consumers with information on the extent to which suppliers respect or break applicable laws.

Moreover, RWADE is concerned about the **future development of smart metering systems**. We strongly believe that authorities should strictly regulate the number of offers in order to maintain a possibility to compare the offers. Complex tariff modulation mechanisms linked to smart home energy management systems could prevent consumers from switching energy supplier. The interoperability of smart meters and smart appliances and systems should be guaranteed.

We should as well protect people who won't have the opportunity to shift their consumption periods to avoid price increases. People living in a precarious situation won't be able to afford smart appliances. How are these people going to benefit from smart technologies? Are they going to stand near their meter to check the best time to consume energy? Consumers facing poverty cannot be left out. It might be the case if flexibility of those who can afford smart appliances is rewarded. **The consumers' participation shouldn't depend on the financial means they have.**

² EUCJ, 10 July 2014, European Commission v Kingdom of Belgium, C-421/12; Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market, *O.J.*, L 149, 11.6.2005, p. 22–39, **Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights**, *O.J.*, L 304, 22.11.2011, p. 64–88.

⇒ **Failure to choose the best offer or supplier can be explained by a matter of perception :**

Some consumers are **scared to change supplier**, thinking they will have to face administrative problems for example. They don't change, because it's easier or because they do not trust the market. The problem is that these fears can be reinforced by practices like **requiring penalties for switching supplier**. Legally, suppliers aren't entitled to do so. But in practice some energy suppliers have found a way to bypass the law.

If your energy supplier is Essent, Mega or Octa + and that you make the decision to switch to another energy supplier, then these companies expect you to **pay for the entire annual subscription fee**, no matter how long you were supplied by them. We have a case in which a supplier asked 68 euros to a consumer for only 4 days of electricity consumption... In that situation, the consumer had signed a contract during a door-to-door sale. In our view, those kinds of fees prevent consumers from switching supplier. Nevertheless, for now, Belgian authorities neither react nor forbid such practices.

In the absence of reaction from the authorities, we fear that all suppliers might soon ask their departing clients to pay for the whole annual subscription fee.

- Protection of vulnerable consumers

⇒ **Social tariff**

In Belgium, the federal and regional laws grant social tariffs to some vulnerable consumers, according to their status. Social tariff is based on the market. It amounts to the lowest tariff of the market (cheapest energy price and cheapest distribution system operator's tariff. It is 20-30% less expensive than the average market price. It is set every 6 months by the federal regulator. The federal authority repays the difference between social tariff and the commercial tariff to the supplier.)

We believe that the social tariff should remain the same for everyone and shouldn't depend on the capacity to choose the best supplier according to one's profile. In Wallonia, energy poverty affects nearly 20% of households³ while only 10% are entitled to social tariff, according to their status. Therefore, we plead for a social tariff that would be granted on the basis of an income criterion.

If the concept of energy poverty is defined at the European level, it could be used as a basis for granting social tariff. A protection in terms of tariff seems to be a better option in our view than a flat-rate reduction, in order to avoid tariff increase from suppliers.

⇒ **Protection against disconnections**

One issue that is very important to us is the safeguards against disconnection. We would like to insist on the fact that 'pay as you go meter' is a false alternative solution to disconnection. When households lack the means to load credit onto their meter, they are still disconnected in practice. The disconnection issue falls into the private sphere and people are affected by hidden energy poverty.

³ Energy poverty barometer (2009-2013), an initiative of the Fondation Roi Baudouin (Universities of Brussels and Antwerpen).

In conclusion, we would like to reiterate/to highlight the need to work towards the improvement of **energy efficiency in housing**. It is a way to reduce energy bills for all consumers, to fight energy poverty and to reduce greenhouse gas emissions. According to the Center of Study in Sustainable Housing⁴, in Wallonia 30% of households live under a non-insulated roof, 60% of households live in non-insulated walls and 33% of tenants face humidity problems. Given the fact that heating the houses represents 75-80% of the residential consumption of energy, the improvement of the energy performance in housing stays for us the number one priority in order to reduce energy consumption and to achieve universal access to energy (while electricity only represents 20 to 25% of the residential consumption of energy). Beyond financial aids, public authorities should invest in social support and counselling for citizens on this issue.

Many thanks for your kind attention!

⁴ Centre d'Etudes en Habitat Durable, "Enquête sur la qualité de l'habitat durable en Wallonie – Résultats clés", Janvier 2014, <https://drive.google.com/file/d/0B2DSr7OhrqEjbFBTb1pTdUpqWkE/edit>.