

ANEC position on the draft report "Shift, not drift: Towards active demand response and beyond" by THINK, European University Institute, version of 3 May 2013

ANEC welcomes the attempt to take a consumer-centered approach to demand response, but several of the proposals in the report have the potential to expose consumers to significant new risks without adequate safeguards. We therefore would like to highlight the following issues:

Contracts

1. The introduction of complex new contracts for consumers with intermediaries represents a significant risk for consumers. Except for the co-operatives, all of the other types of intermediary will want to minimise the "share of the cake" available to the consumer - so cannot be trusted to provide the consumer with impartial advice. There may be a role for well regulated comparison services, but the experience of supply competition suggests that the way in which information is provided by comparison services is influenced by the commercial relationships with the supplier and it seems likely that a similar issue will arise with the commercial relationships between comparison services and intermediaries. How will the consumer be able to identify which comparison services provide reliable information? There needs to be a clear role for an adequately funded, independent consumer voice which can provide impartial information, help and advice to consumers.

2. In the design of contracts, profiles (or preferences) are assumed to be stable throughout time. This is however not always the case: an individual situation can change quickly (illness, family composition, etc.) and consumers must be able to change their contract very rapidly. Similarly, consumers will move between customer segments so need to be able to change to more suitable demand response products without barriers or penalties. The contract terms and possible lock in (as described on page 34) is a risk to consumers as well as a barrier to competition. The proposal for Dispute Resolution on page 36 is welcome, but in itself is unlikely to be sufficient to remove barriers to switching.

3. The report rightly underlines that "the consumer makes the final decision [...] and he cannot be forced to enter a specific contract type" (page 18). This important statement implies that consumers who do not want to change their contract won't be charged *ceteris paribus* more. It is crucial to ensure that so-called base contracts are not made artificially more expensive.

Potential savings and scope to shift demand

4. A major gap in the report is that it makes no attempt to estimate the potential savings which could be made by consumers from participation in demand response or the risks/costs of doing so. At this moment, it is impossible to know the percentage of consumers who would be interested in the different contracts. Pilot projects are not reliable about what can be expected, considering the participating test persons already are a priori interested in the new technologies. A representative recruitment and a sound methodology are indispensable to demonstrate the feasibility of demand response. In the case of smart meters, around 90-95% of consumers opted out of pilot participation¹. In European countries where the electricity market liberalisation has been slow consumers will be puzzled with demand response contracts.

5. The report further falls short to assess the realistic scope for consumers to shift demand e.g. how much demand could a consumer move from one time period to another and for what period could demand be postponed without adversely impacting the consumer. We believe contract conditions should allow a certain degree of flexibility in consuming electricity: constraints on choice (hours, use of infrastructures) can undermine individual freedom. Even when consumers are aware of high imbalance costs, they often are hardly able to change their behaviour.

6. The comment on page 39 that consumers are not exposed to the real costs of imbalances is misleading, as the industry cost and charging model ensures that all costs in the supply chain are borne by the consumer. Few consumers (page 40) are likely to be willing or able to accept exposure to the full costs of imbalance and it seems unlikely that the potential savings would be sufficient to justify the risk involved.

Protection of consumers

7. The report says that "customers must not be overly protected". ANEC points out that all consumers need to be adequately protected. Empowerment and protection are not mutually exclusive. The description of a real-time market on page 10 argues that it is essential for consumers to be exposed to the full risks (e.g. being disconnected) and benefits. The report fails to explore how consumers can be incentivised to participate in demand response without forfeiting the right to

¹ [BEUC study: Empowering consumer from smart metering, F. Klopfert et G. Wallenborn, 2011](#)

adequate protection. Consumers need to be protected against both price and volume risks.

8. The report does refer to vulnerable consumers, but makes the mistake of assuming that this is a fixed group of people. Consumers move in and out of vulnerability as their circumstances change and their vulnerability is also dependent on the situation. This needs to be reflected in the way that help is provided and protections developed.

9. Experience in other markets (e.g. financial services) suggests that consumers could be exposed to unscrupulous intermediaries, with consumers being misled or mis-sold complex products which are unsuitable for them and leave them exposed to large financial risks or penalties. The assumption on page 20 that consumers will be able to make an informed assessment of their preferences for each of the criteria listed is highly questionable. What information will be given to consumers to enable them to make this assessment? The regulatory measures proposed in the paper need to be strengthened, including more specific protection for consumers in vulnerable circumstances (a better term than vulnerable customers). There does not appear to be any proposal for consumer protection against intermediary comparison services.

10. The role of consumer co-operatives is much less developed than those of other market players. These cooperatives are not well defined, although they could play a vital role in the demand response market.

ANEC in Brief

ANEC is the European consumer voice in standardisation, representing and defending consumer interests in the development of technical standards, in conformity assessment to standards, and in the creation or revision of legislation on products and services. Its members represent national consumer associations in 32 countries. ANEC receives financial support from the European Commission and the EFTA Secretariat. ANEC has signed the EU Transparency Register (507800799-30).

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