

Memorandum

July 2024

Ombudsdienst
Service de Médiation

voor
pour l'

ENERGIE



Foreword

The Energy Ombudsman is an autonomous federal service with legal personality, responsible for distributing requests and complaints concerning the operation of the electricity and natural gas market, and for handling any disputes between an end customer and an electricity or natural gas company.

Based on our mission, complaint data and mediation experience, we are formulating policy recommendations in application of Article 27, §1, second paragraph, 4° of the Act of 2G April 1GG on the organisation of the electricity market.

The Federal Ombudsman is attempting to contribute by highlighting a number of measures aimed at ensuring good market practices and solid consumer protection.

This memorandum provides an overview of these proposals. The appendix contains detailed explanations for each policy recommendation.

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Energy Ombudsmen

Contents

1. PRICES AND TARIFFS;.....	4	5. ACCESSIBILITY OF ENERGY COMPANIES.....	15
Safety nets.....	4	Energy company customer service.....	15
Extending the social rate benefits.....	5	6. SETTING UP AN INTER-FEDERAL ENERGY PLATFORM...	17
2. SALES AND MARKET PRACTICES.....	6	Regional and federal authorities.....	17
SALES PRACTICES.....	6	7. ENERGY OMBUDSMAN.....	18
Protection for domestic customers and SMEs.....	7	Ombudsman fees.....	18
Strengthening consumer consent.....	8	Corporate responsibility.....	18
Unjustified takeover of an energy contract.....	8	Power.....	19
Energy resumption following a move, death, (etc.).....	9	Expansion of the range of energy-related disputes For which the Energy Ombudsman is responsible.....	19
Recognising and respecting consumer consent....	11	Legalise the recording of telephone complaints.	19
3. INVOICING.....	12		
Late invoicing.....	12		
Two-year limitation period.....	13		
4. SETTLEMENT AND COLLECTION.....	14		
Energy liabilities	14		

1. PRICES AND TARIFFS



Policy opinion 1

Reintroduce the regulation on safety nets for variable energy prices, under which the CREG will monitor price increases and the prices of new energy contracts are controlled and approved. The energy market has become much more complex since its abolition. As a result, some customers have not yet taken the step towards active participation in the energy market. There is a risk that others will abandon the market.

Even before the energy crisis, the Ombudsman had advocated a return to a "catch-all" regulation. **This reintroduction is certainly not an unnecessary luxury for new variable energy contracts, given the complexity of indexed energy price formulas.**

Policy opinion 2

In addition to the reintroduction of a safety net mechanism for variable energy contracts, the Ombudsman also advocates **the additional regulation of the safety net for new fixed-rate contracts and associated risk premiums** placed on the market.

Policy opinion 3

The Ombudsman requests that **the federal energy regulator, the CREG, check and approve the additional costs or fixed tariffs invoiced by suppliers.**

This could boost confidence in the energy market, for both end customers and energy suppliers.

1. PRICES AND TARIFFS

Extending
the social rate
benefits

Policy opinion 4

Permanently extend social tariff beneficiaries to the same categories as Social Heating Fund beneficiaries.

2. sales and market practices

SALES
PRACTICES

Policy opinion 5

Member States may also introduce proportionate and non-discriminatory provisions for the sale of energy contracts outside the seller's own sales premises or on the retail premises of another seller, and for sales in private or public rooms not belonging to the company.

In these cases, we are therefore considering establishing protection similar to that for door-to-door sales, where sellers must respect a three-day cooling-off period.

2. sales and market practices

Protection
for domestic
customers
and SMEs

Policy opinion 6

[In its Policy opinion 24.015 of 15 January 2024](#), the Ombudsman argues in favour of greater harmonisation of the protection rules for domestic customers and those for SMEs.

2. sales and market practices

Strengthening
consumer
consent

Unjustified takeover of an energy contract **Policy opinion 7**

The Ombudsman recommends reverting to the situation prior to MIG6 with the following provision:

"A supplier who has wrongly requested a change of supplier cannot invoice the network user concerned and must reimburse all invoices already wrongly paid by the end customer purchaser. This supplier has not signed an energy contract with the end-user concerned.

Nor can the actual supplier invoice for energy costs or consumption because it has not supplied the end customer concerned".

2. sales and market practices

Strengthening
consumer
consent

Energy resumption following a move, death, etc. **Policy opinion 8**

It is essential that the supplier confirm the telephone notification of a move in writing, and that the meter readings on the date of the energy takeover following a move, death, change of customer, etc. are communicated to the supplier, preferably via an energy takeover document (DRE) completed by both parties and provided by the supplier.

2. sales and market practices

Strengthening consumer consent

Energy resumption following a move, death, etc. Policy opinion 9

Even more than in previous years, the Ombudsman advocates an improved and more accessible moving procedure. In addition to the new IT procedure of the ATRIAS data platform, [the consumer agreement](#) "The consumer in the liberalised electricity and gas market" also contains ambiguities concerning notification of a move and the cessation of invoicing for energy consumption and energy contract costs.

For energy takeovers following a move, death, change of customer or combined change, we propose improving the situation as follows:

- Notification of the move within 30 days before the date of the move (and not just 14 days before the move as currently recommended) when the telephone notification is also confirmed in writing by the supplier with the dispatch to the customer of an Energy Resumption Document (ERD) notifying the move.
- Transfer of meter readings preferably by ERD by the parties involved, but other options must be possible, as in practice not all the parties involved (former or new occupant/owner) are always able to complete/sign an ERD.

2. sales and market practices

Strengthening
consumer
consent

Policy opinion 10

Recognising and respecting consumer consent

The Energy Ombudsman recommends that this [consumer agreement](#) be signed by all energy suppliers and distribution network operators, or that it be confirmed in legislation.

This would be in the interests of both consumers and (social) suppliers.

3.

INVOICING



Late
invoicing

Policy opinion 11

In addition to a solution for the internal problems of distribution network operators, whether ATRIAS-related or not, the Ombudsman also calls for the regulation of late invoicing due to internal supplier problems. [In policy opinion 24.016 of 31 January 2024 on the draft law amending various provisions relating to energy invoices](#), the Ombudsman argues for **a maximum chargeback period of 12 months from the time the supplier receives the meter data or its rectification.**

In this case, the supplier has **a maximum of 12 months to issue an invoice against the consumer or SME.** If the (rectified) invoice is issued more than 12 months after receipt of the (rectified) meter data, it can no longer be collected or recovered, unless the issue of this late (rectified) invoice involves a financial benefit or credit for the consumer or SME.

3.

INVOICING



Late
invoicing

Policy opinion 12

Two-year limitation period

The Ombudsman recommends restricting the limitation period to two years from the moment the (digital) meter readings are notified or corrected by the distribution network operator to the energy supplier.

If the invoice due date is to be the starting point, **the Ombudsman suggests that the preparation and dispatch of annual statements, corrective invoices or final invoices should be limited in time to a maximum of 12 months from the date on which the energy supplier received the (corrected) meter reading from the distribution network operator (see chargeback period in Policy Notice 11).**

In this way, the Ombudsman is attempting to strike a legitimate balance at federal level between the time limit for energy bills (12 months from the time of notification of (digital) meter readings or their correction by the distribution network operator to the energy supplier) and the time limit for energy bills (two years from the due date of the energy bill). This balance avoids compromising regional deadlines for the rectification of energy bills by the distribution network operator and energy suppliers.

Some fear that shortening the limitations period from five to two years will make energy companies more inclined to collect unpaid energy debt through a professional debt collector. However, we are finding that energy companies are now choosing this route from the start of the collection process, by having the debt collected by a collection agency, law firm or bailiff, or by assigning it to them.

4. SETTLEMENT AND COLLECTION

Energy liabilities

Policy opinion 13

The Ombudsman proposes that **fixed-sum compensation clauses**, insofar as they are authorised by regional regulations on public service obligations of a social nature and regulated by Book XIX "Consumer Debts" of the Economic Code, **be authorised only when the energy supplier terminates the customer's energy contract.**

5.

ACCESSIBILITY OF ENERGY COMPANIES

Energy company
customer service

Policy opinion 14

Given that there is a digital divide (the risk of which is still estimated at 40% of the population¹), it is recommended that energy suppliers' telephone accessibility be enshrined in law, along with the obligation to confirm in writing telephone agreements that are of financial or contractual importance to the consumer.

We are thinking in particular of situations where customers call to arrange a move without having received written confirmation. Problems arise when the supplier does not receive the telephone notification of the move in time, or when there is no telephone cancellation of the energy contract.

¹ King Baudouin Foundation Digital Inclusion Barometer 2022

5.

ACCESSIBILITY OF ENERGY COMPANIES

Energy company
customer service

Policy opinion 15

To improve telephone accessibility for companies in the energy sector, we also recommend setting up a **freephone number for energy suppliers and distribution network operators.**

Most energy companies can only be contacted by phone, on a premium rate number, sometimes with long waiting times. Customers are often directed to digital questionnaires and complaint forms. However, not all customers have the digital capabilities to deal with these issues, and are more likely to seek a sympathetic ear for their questions and problems. Many of these information-seeking customers end up contacting the Ombudsman, even though this first-line treatment is not part of its remit. In 2023, more than 6,000 telephone calls concerned questions for which the customer should have contacted the energy company (supplier or distribution network operator), often without success.

Policy opinion 16

Many suppliers now communicate with their customers via web forms or chat boxes.

When these companies then correspond by email, they do so from email addresses to which the user cannot reply ("no-reply@..."). If the customer then wants to reply, they must start again with a new message via the web form.

Every energy company should therefore provide its customers with an accessible email address so that digital dialogue remains possible.

An added benefit is that sent emails are always saved in the user's mailbox by default, making it easy to subsequently prove that the email was sent.

6.

SETTING UP AN INTER-FEDERAL ENERGY PLATFORM

Regional
and
federal
authorities

Policy opinion 17

As questions and reports on electricity and natural gas can also be linked, in whole or in part, to the regional organisation of energy markets and the challenges of the energy transition, **the Ombudsman advocates an inter-federal energy platform with reliable information on the energy market and the energy transition.**

The Energy Ombudsman remains the single point of contact for mediation requests concerning complaints and disputes relating to federal and/or regional energy issues.

7.

ENERGY OMBUDSMAN

Ombudsman fees

Policy opinion 18

Corporate responsibility in the energy

The Ombudsman proposes **revising the global distribution key** that sets the respective proportion of suppliers and distribution system operators in the financing costs of the Ombudsman as follows:

- taking into account 50% (instead of 75%) of the total number of customers of suppliers and distribution system operators;
- taking into account 50% (instead of 25%) of the total number of complaints registered by the Ombudsman regarding suppliers and distribution system operators.

7.

ENERGY OMBUDSMAN

Power

Policy opinion 19

Expansion of the range of energy-related disputes for which the Energy Ombudsman is responsible.

It seems desirable that the Energy Ombudsman should also be competent for all disputes concerning products and services directly or indirectly linked to the operation of the energy market and the energy transition, whether the service provider is a supplier or another company. Consumers do not always make this distinction.

This extension of the Ombudsman's powers is in line with the Fourth European Electricity Directive, which endorsed the crucial role of ombudsmen in the energy sector. As a result, it also requires companies other than energy suppliers (traders, energy service providers, aggregators and all suppliers of contracts with energy components, including bundled offers and local energy communities) to follow-up out-of-court dispute resolution.

Policy opinion 20

Legalise the recording of telephone complaints.

At present, there is no legal provision for filing a complaint by telephone.

However, the Ombudsman notes that over 6,000 queries and complaints regarding energy companies are dealt with by telephone each year and that this extra workload is not offset by appropriate staffing or additional funding.

To further help (vulnerable) consumers and enable energy companies to collect a fair contribution for these complaints, the Ombudsman proposes that **telephone complaints also continue to be handled in writing, provided the end customer concerned agrees.**

This can be done by summarising the telephone complaint in writing and sending it to the complainant by letter or email for approval, then delivering it to the energy company.



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Make a complaint [via this link](#)



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