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# REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

## On market-based electricity supply prices, effective retail market competition and promoting remuneration of flexibility in retail contracts

## INTRODUCTION

Article 5(10) of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity[1] (hereafter 'Directive (EU) 2019/944' or 'the Electricity Directive') requires the Commission to report on the implementation of the provisions in Article 5 on market-based supply prices and public interventions in price-setting for the supply of electricity.

In line with its commitment to promote energy affordability and enable flexible participation in electricity markets, the Commission, as announced in the affordable energy action plan[2] (AEAP), seeks to promote remuneration[3] as a means to more affordable energy, including through lower electricity supply costs.

Competitive retail markets and demand-side flexibility are closely linked to other aspects of the AEAP, and in particular to both the Commission's electrification and digitalisation strategies which also have a strong focus to be delivered in a consumer-friendly way[4].

The first chapter of this report focuses on market-based retail prices, as required by Article 5 of Directive (EU) 2019/944, which are key to creating effective competition between suppliers and improving market offers to consumers. It also highlights practices to assist Member States with their implementation of Article 5. Market-based prices are also important for the delivery of flexible contracts. In Member States where price interventions remain in place, this transition must be carefully managed to safeguard affordability, while enabling clear price signals to underpin flexible retail contracts.

Demand-side flexibility[5], which can be provided by a variety of means, plays a central role in aligning markets with consumer needs, delivering affordability, savings, and system efficiency. Flexibility delivers value both directly to participating consumers, through lower prices and better energy usage, and to the wider system by reducing costs and enhancing efficiency. However, the guiding principle must be that flexibility serves consumers, not burdens them and that retail offers and system incentives are designed to ensure clarity, fairness, and inclusivity. To realise these benefits in practice, demand-side flexibility should be actively promoted where it creates clear benefits. This applies particularly for final customers who are equipped and motivated to participate in the retail market, but also for the energy system as a whole**.**

The second chapter of this report focuses on the provision of flexibility through retail contracts[6] where consumers can respond to price signals by altering their electricity usage. The provision of such flexibility aims to boost consumer engagement by incentivising adjustments in energy usage that align with supply and demand dynamics, while safeguarding affordability and protecting vulnerable consumers.

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1 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast) (Text with EEA relevance.), (OJ L 158, 14.6.2019, p. 125), Member States were required to complete transposition before 31 December 2020 ELI: http://data.europa.eu/eli/dir/2019/944/oj.

2 COM(2025) 79 final, 'Action Plan for Affordable Energy: Unlocking the true value of our Energy Union to secure affordable, efficient and clean energy for all Europeans'.

3 Within the context of this document, retail electricity supply contracts refer mainly to contracts concluded between energy suppliers and customers that cannot access wholesale markets directly, such as households and businesses (e.g. small and medium-sized enterprises and microenterprises).

4 As announced in the action plan for affordable energy, the Commission will put forward an electrification action plan and a strategic roadmap for digitalisation and AI for the energy sector.

5 According to Article 2(79) of Regulation (EU) 2019/943 "flexibility" means the ability of an electricity system to adjust to the variability of generation and consumption patterns and to grid availability, across relevant market timeframes.

6 This kind of demand response is usually referred as price-based (or implicit) demand response since consumers respond to retail electricity price changes and shift their consumption towards time periods when electricity is cheaper.

## 1. MARKET-BASED SUPPLY PRICES

Article 5 (1) of Directive (EU) 2019/944 provides that all suppliers are free to determine the price at which they supply electricity to customers. Together with the right of customers to choose their own supplier, it is a key element of the Electricity Directive for ensuring fair competition and open access for all suppliers.

Article 5 should enable consumers to fully benefit from a liberalised internal electricity market which encourages both price and non-price competition among electricity suppliers, attracts new entrants and ultimately enhances consumer choice and satisfaction. Liberalised energy markets also help ensure that consumers can fully benefit from enhanced flexibility and improved energy investment in renewables while contributing to grid stability through demand response. Beside Article 5 the Electricity Directive contains other measures that facilitate competition and consumer choice, such as price comparison tools, accurate bills, smart meter and out-of-court dispute settlement rights.

Article 5 also allows Member States to intervene in price-setting – either to protect energy-poor and vulnerable customers, or for all households and microenterprises as part of a transition to fully effective competition, under strict criteria. An intervention in price-setting (also called 'regulated prices') means that at least one retail supplier is restricted in its ability to freely determine the price at which it sells electricity through at least one of its contracts[7]. Regulated prices can be effective in stabilising the price of energy for end consumers. However, they potentially remove the price signal to consumers, reduce energy efficiency incentives and undermine competition, to the detriment of consumers in the long run.

This report assesses the price-setting mechanisms in retail markets across Member States since the Electricity Directive has been entered into force in July 2019. It is informed by reports submitted by Member States pursuant to Article 5(9)[8] as well as analysis and data from ACER, data from Eurostat and desk-based research.

Despite the energy crisis in recent years (consequences of the COVID-19 pandemic and Russia's unjustified invasion of Ukraine in 2022), there are indicators of improved competitive conditions in the Union, especially in Member States which have no price regulation. However significant scope for improvement remains. Member States need to undertake road mapping which outlines a path to transition to effective competition and reinforces the development of more flexibility on retail markets.

**Box 1. Public interventions in price-setting during the energy crisis**

*The energy crisis pushed retail prices up significantly in 2022, with price levels continuing to remain elevated for much of 2023 and 2024.*

[7] Interventions such as one-off payments to households, vouchers and reductions in VAT and excise duties, which do not restrict the ability of suppliers to freely determine prices are not covered by Article 5. Wholesale market interventions are not allowed under the Electricity Directive.

[8] On their implementation of Article 5 pursuant to Article 5(9).

*The Commission provided guidance on the application of Article 5 of the Electricity Directive during the crisis*[9] *as part of the REPowerEU communication (COM(2022) 108 final). This was followed by Council Regulation (EU) 2022/1854 on an emergency intervention to address high energy prices that temporarily expanded the options available to Member States to intervene in electricity price-setting*[10].

*During the crisis, intervention tools used by Member States included price interventions on retail prices, VAT reductions, and household electricity credits and vouchers. Overall, the crisis saw a movement of customers in many Member States onto regulated, capped or otherwise protected offers. While the majority of measures have been wound down, some remained active until 2025.*

*The revision to the Electricity Directive introduced Article 66a, enabling the Council to declare a Union-wide or regional price crisis, allowing Member States to temporarily set below-cost prices and extend support to SMEs under strict conditions to safeguard competition, energy efficiency, and demand reduction incentives.*

### 1.1 Current status of reporting by Member States on Article 5 provisions

Member States[11] have reported on their implementation of Article 5 as follows: Most of the reports have been sent by 31 March 2025 and reflect the situation at this date:

- 14 reported they have not implemented price intervention: Austria, Czechia, Germany, Denmark, Estonia, Greece, Finland, Croatia, Ireland, Luxembourg, Latvia, the Netherlands, Sweden and Slovenia.
- Three Member States report intervention only for energy-poor and vulnerable households: Belgium, Italy and Portugal.
- Six Member States report price intervention for all households and/or microenterprises in a transition towards fully competitive markets: Bulgaria, Spain, France, Hungary, Lithuania, and Slovakia.
- Three Member States report interventions in price-setting ending in 2025: Poland (September 2025), Portugal (December 2025) and Romania (July 2025)
- Two Member States noted derogations from the application of Article 5 and that reporting was consequently unnecessary[12]: Cyprus and Malta

Under Article 5(8) Member States have an obligation to notify the Commission of their decisions to regulate retail prices within one month after their adoption. This obligation also encompasses all the substantial modifications of ongoing schemes (e.g. extension of beneficiaries). These obligations shall be systematically fulfilled.

### 1.2 Price intervention for the benefit of vulnerable and energy-poor consumers

Article 5(2) sets out that Member States should prioritise social policies or non-price-based interventions to protect energy-poor or vulnerable customers. Such measures could take the

[9] REPowerEU: Joint European Action for more affordable, secure and sustainable energy - COM/2022/108 final

[10] An overview of the implementation of this Regulation is provided for in the Report from the Commission to the European Parliament and the Council on the review of emergency interventions to address high energy prices in accordance with Council Regulation (EU) 2022/1854 - Publications Office of the EU.

[11] In 2024, the Commission provided a template to facilitate this requirement.

[12] Article 66(4) (Cyprus, ongoing work to renew the derogation) and 66(5) (Malta).

forms set out in the Commission's Recommendation (2023/2407) on energy poverty[13] which focuses on structural solutions to address it.

Notwithstanding this, Article 5(3) allows Member States to implement public interventions in price-setting. Such interventions must take place within a broader framework of interventions aimed at supporting vulnerable and energy-poor individuals in the context of their national energy and climate plans (NECPs)[14].

Article 5(4) requires that public interventions in electricity pricing for vulnerable households serve a general economic interest, be transparent and non-discriminatory, ensure equal access for providers, be time-limited and proportionate, and avoid discriminatory additional costs for market participants.

Belgium, Italy and Portugal reported interventions in price-setting (via social tariffs) which only apply to vulnerable and energy-poor households. Those interventions are part of wider strategies in those countries to fight energy poverty. Spain has also put in place a 'bono social' mechanism which can also be seen as an intervention under Article 5(3).

While in Belgium the market share of this intervention is limited to 9.9% of households[15], in Italy, price intervention for vulnerable customers, *Esercenti maggior tutela per clienti vulnerabili,* covers 35% of households because the conditions for eligibility are broader[16]. In Portugal, the social tariff[17] is identified as a social policy measure in the Portuguese *Estratégia Nacional de Longo Prazo para o Combate à Pobreza Energética* (Long-Term Strategy to Combat Energy Poverty) 2023-2050 and covered 13% of the electricity consumers in 2022[18].

Member States are encouraged to prioritise structural measures such as energy renovation over affordability measures - like income support and social welfare programmes or temporary financial assistance - for households in energy poverty. Social tariffs may be used as part of a broader, well-targeted approach to alleviate immediate hardship.

### 1.3 Price intervention for the benefit of all households and microenterprises for a transition period towards effective competition

Article 5(6) of the Electricity Directive allows Member States to temporarily regulate electricity prices during a transition to fully effective competition. This allows interventions for a time-limited period when the benefits of competition would not be fully realised.

The criteria for price interventions - in the context of a transition towards effective competition as set under Article 5(7) - are cumulative with those under Article 5(4) with the overall aim of creating a robust legal and economic structure to prevent market distortions. They include - among others - progress assessment, non-discriminatory supplier treatment, above-cost setting, information of beneficiaries about other competitive offers and prevention of cross-subsidisation between market and regulated price customers. While some countries have

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13 Commission Recommendation (EU) 2023/2407 of 20 October 2023 on energy poverty, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202302407.

14 Article 5(5) of the Directive refers to Articles 3(3)(d) and 24 of the Governance Regulation (EU) 2018/1999 which requires Members States to outline in their integrated national energy and climate plans, the policies and measures, which address energy poverty including social policy measures and other relevant national programmes.

15 CEER/ACER, 2023. For comparison, 2023 Belgium energy poverty was about 6%.

16 Eligible consumers are those who turned 75, consumers who qualify for the social bonus based on economic situation or due to a health condition (requiring powered medical equipment), persons that are disabled, live in emergency housing following a catastrophic event or, on a small, non-interconnected island).

17 The social tariff is not subject to Article 5(3) as: 'vulnerable consumers can choose their supplier, and the discount is applied to the network tariff' therefore suppliers retain the freedom to set prices.

18 Direção-Geral de Energia e Geologia. *Estratégia Nacional de Longo Prazo para o Combate à Pobreza Energética (RCM 11/2024, 8.1.2024)*. 2024. https://www.dgeg.gov.pt/media/rgicnggr/rcm-11-2024-08-01-2024-estrat%C3%A9gia-nacional-de-longo-prazo-para-o-combate-%C3%A0-pobreza-energ%C3%A9tica.pdf

successfully integrated price regulation with gradual market liberalisation, others are only at the very beginning of transitional phases. Market dynamics reveal significant disparities: for instance, 18% of households in Portugal, 27.3% in Lithuania, 29% in Spain, 57% in France and 63% in Poland still rely on regulated tariffs[19]. These countries report they are addressing the requirements outlined in Article 5(7)(a) by taking measures to enhance competition and that are monitoring progress. Nonetheless, not all of them have set clear dates for revising their schemes.

In contrast, in several Member States e.g. Hungary, Slovakia and Bulgaria[20], nearly 100% of household customers are on regulated tariffs. Measures in some Member States still cover small and medium-sized enterprises (SMEs). Such measures, while permitted during the crisis under Regulation 2022/1854, are in conflict with the Electricity Directive.

Article 5(7)(a) requires that public interventions in price setting "*be accompanied by a set of measures to achieve effective competition and a methodology for assessing progress with regard to those measures*". To meet this obligation Member States can define a roadmap, organized around measures which should include defined milestones and a methodology for assessment with indicators. Such a roadmap should outline measures to reduce distortions in pricing mechanisms, enhance transparency in market signals, and ensure fair competition among suppliers – in line with the wider criteria set out in Article 5(7).

By anchoring supply prices to market dynamics, Member States can foster investment in renewable energy, improve grid stability, and support long-term cost predictability for consumers. The roadmap should also integrate **stakeholder consultation**, including energy producers, consumers, and regulators, to address concerns about affordability and market volatility. A structured approach will not only accelerate the integration of renewables but also ensure that Member States remain resilient to external shocks, such as geopolitical disruptions or sudden shifts in energy demand.

Several Member States have successfully navigated the transition towards fostering effective competition in the retail energy market while safeguarding consumer interests. For instance, Ireland implemented a phased approach to market opening between 2000 and 2011 while simultaneously advancing wholesale market liberalisation. Lithuania is now at an advanced stage of introducing retail market competition, demonstrating resilience despite the energy crisis. Based on their submissions, three other Member States have announced the phase-out of price interventions in retail price-setting: Romania, as of July 2025, Poland, as of September 2025 and Portugal, as of December 2025. These examples highlight how gradual, targeted strategies can balance market dynamism with consumer protection.

The provisions of Article 5(4)(c) and (d) and Article 5(7)(b) require that interventions not unjustifiably favour or disadvantage specific beneficiaries or suppliers. All electricity undertakings must have equal access to customers, and the financial burden of interventions must be distributed fairly[21]. These provisions ensure there is a level playing field and prevents market fragmentation which is essential in markets where there is a dominant (historical) supplier. Regulated prices should not give an undue advantage to particular suppliers, either through the branding of regulated prices, or through the use of the regulated price framework to promote other market-based contracts from that supplier.

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19 ACER, Market Monitoring Report 2025.

20 ACER, Market Monitoring Report 2024, p.23.

21 See also the judgment of the Court of Justice of 20 April 2010, Federutility, C-265/08, ECLI:EU:C:2010:205, points 45–46.

By aligning supply prices with market conditions, Member States can give consumers clearer price signals while supporting renewable investment, strengthening the grid, and improving long-term cost predictability for households. On these grounds, and as a general objective for Member States implementing price interventions, Member States should develop a clear, time-bound road map to transition towards market-based supply prices, aligning with the principles of the reformed EU market design and the objectives of the clean energy transition.

The Commission will enquire further on each Member State's intention to set and implement those roadmaps. The Commission is also assessing the respect of EU rules and principles and will enhance its cooperation with the Member States to address any outstanding issue(s).

Although Directive 2019/944 does not provide for a new reporting date beyond 1 January 2025, Member States will be invited to report regularly on the level of competition on the electricity retail market through National Energy and Climate Progress Reporting (NECPR). This reporting may mirror existing reporting obligations under Article 4(9) of the Gas Directive (2024/1788) which are required every two years.

**Application of principles of Article 5(4)**

Member States have broad discretion in determining what constitutes a service of general economic interest and associated public service obligations. Member States have interpreted the criteria under Article 5(4)(a) of 'general interest', 'necessity' and 'proportionality' in diverse outcomes [22]. In the Federutility judgement, the Court of Justice outlined the principle of proportionality in the context of public intervention in natural gas pricing to ensure public interventions remain targeted, effective, and appropriately balanced in their design and application - in particular, the intervention must be confined to a duration strictly necessary to achieve its intended objective.

Article 5(4)(d) requires that all public interventions in price-setting be limited in time and proportionate as regards their beneficiaries. This requirement must be interpreted in the context of the broader principles of proportionality and the pursuit of general interest. Specifically, the intervention must align with nationally defined objectives, such as combating energy poverty or facilitating a transition toward effective competition. The limitation in time allows for regular review to check that all the intervention criteria defined in Article 5 are still met. When measures are continued or extended, they should again be notified to the Commission based on a new assessment of necessity.

### 1.4 Extent of competition across Member States

A key objective of the Electricity Directive - and Article 5 in particular - is ensuring effective competition on retail electricity markets. In their reports, 18 Member States reported that they consider that there is effective competition in place at retail level, whereas five Member States[23] responded that there is not.

Two commonly used indicators of competition are the Herfindahl–Hirschman Index (HHI) and the supplier switching rate[24]. The HHI uses market shares of suppliers to measure how concentrated a market is, with low concentration associated with many suppliers and hence more competition, while high concentration is associated with less competitive conditions.

[22] This autonomy is explicitly guaranteed by various EU legal instruments and affirmed by the jurisprudence of the Union's courts and tribunals. In fact, the Court of Justice of the European Union has consistently recognised that EU law does not prevent Member States from taking into account objectives specific to their national policy when defining services of general economic interest.

[23] Austria, Greece, Spain, Italy and Poland.

[24] Data on both these indicators has been provided by ACER.

Since 2019, the average HHI in the EU has fallen marginally, indicating some improvement in competitive conditions. There has been variation across the Union, with some Member States[25] experiencing increased competition and others[26] seeing reductions. Generally, Member States without price regulation saw an improvement in competition while there was a marginal deterioration in competition (HHI increase of 1.7%) in Member States where nearly all households were under regulated prices. The crisis had a negative effect on competition; among the 12 Member States with consistent annualised data on market concentration, the simple (non-weighted) average HHI index increased by 4.7%[27]. This is partially explained by consolidation and supplier exits[28] (as a result of the crisis) in some Member States.

The HHI for the non-household sector is generally lower than that for the household sector across Member States. While there has been some improvement in competition conditions in the non-household sector since 2019, but conditions worsened in some Member States during 2022 and 2023.

Switching rates vary considerably across the EU. Higher rates suggest a healthy competitive market, and lower rates indicate limited choice for customers or low consumer engagement. Some Member States are occasionally higher than 20%[29] and others are consistently under 5%[30]. Since the introduction of the Electricity Directive, the switching rate in both the household sector[31] and non-household sector[32] has increased in most Member States. While the average EU rate in the household sector went up during the start of the crisis in 2022 (from 8.7% to 9%), it reduced in 2023 (to 7.15%), possibly due to the impact of the crisis on suppliers and the dynamics introduced by public interventions. A similar pattern was recorded in the non-household sector.

ACER[33] has noted that amongst Member States where the switching rate is less than 10 %, almost three quarters (73%) have dominant suppliers. They also observe that price interventions may act as a disincentive to switching as the percentage of household customers receiving price interventions is comparatively lower in Member States where switching rates are higher than 10%. Similarly, there is variation amongst Member States in the switching rate for non-households. Generally, non-household customers switch at higher rates than households, with the average rate in 2023 being double that of households.

In summary, since the introduction of the Electricity Directive, competitive conditions seem to have slightly improved despite the impact of the energy price crises. However, conditions vary between Member States. Many markets remain relatively concentrated, and a high number of respondents (21.7%) consider that there is no effective competition in their Member State's retail electricity market.

In their submissions, Member States gave updates on difficulties they faced[34] in improving competitive conditions with the four most cited barriers being:

1) low switching rates and/or reported low consumer engagement (11 Member States),

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25 Such as Denmark, Spain, France, Italy, Latvia, and Portugal.
26 Namely Estonia, Finland and Slovenia.
27 The percentage increase refers to the average change in HHI between 2022 and 2021 for the following 12 Member States: Denmark, Estonia, Spain, Finland, France, Croatia, Ireland, Italy, Lithuania, Latvia, Portugal and Slovenia.
28 See Table 10 of ACER's Energy Retail and Consumer Protection 2023 Market Monitoring Report. There were significantly more supplier exits than entrants for this period.
29 Such as Spain, Italy and Poland.
30 Austria, Bulgaria, Croatia, Lithuania, Poland and Slovakia.
31 Increased in 17 out of the 23 Member States for which data is available.
32 Increased in 15 out of the 22 Member States for which data is available.
33 ACER MMR 2024 ACER-CEER_2024_MMR_Retail-1.pdf.
34 Only three Member States (Sweden, Slovenia and Latvia) reported that there were no identifiable barriers to competition.

2) impact of a dominant market participant (10 Member States), and
3) small size of the market (nine Member States).
4) low access to the wholesale market and presence of other anti-competitive practices in the market (five Member States).

'No-regret' measures are available to Member States that can significantly improve competition, long-term market resilience and consumer choice. These measures improve transparency, ensure suppliers fair access to the wholesale market and increase flexibility in retail contracts. They are described in the next section.

Member States should prioritise the application of existing legislation to ensure coherence across the internal energy market, while they have the freedom to choose the form and method to achieve a common objective typical of the directives. It is critical that Member States fully implement the Electricity Directive as amended by the Electricity Market Design Directive (EU) 2024/1711 (hereafter 'EMD'). Delayed or incomplete transposition of these rules risks undermining their effectiveness and prolonging energy insecurity. The Commission confirms its availability to support and speed up the correct implementation of relevant EU legislation.

### 1.4.1 National measures to improve market competition

Member State reports specified measures introduced to improve competition since the introduction of the Electricity Directive. Measures introduced were:

1. measures to ensure fair and transparent access to the wholesale market (16 Member States)
2. introducing comparison tools[35] (14 Member States)
3. simplification of procedures to facilitate entry of new suppliers (12 Member States)
4. advertisements and information campaigns for consumers (nine Member States)
5. introduction of specific obligations on dominant suppliers (eight Member States)
6. introduction of legislative and regulatory improvements (eight Member States)

The dominant position of some market players in both production and supply continues to hinder effective competition in electricity retail markets. Ensuring that suppliers have fair and equal access to the wholesale market– including through power purchase agreements and contracts for difference as introduced by the electricity market reform[36] - is key to market functioning, particularly in Member States with significant market concentration.

In order to improve the implementation of Article 5, Member States should undertake measures to balance the market by guaranteeing equitable and fair access to the wholesale market for all suppliers and maintaining full transparency

The advancement of non-fossil flexibility in all retail market contracts, including those in regulated markets is also needed for competition. Given network constraints and the need for affordable energy, flexible supply contracts have become a key solution.

Smart meter deployment is crucial to enable more flexible supply contracts. Flexibility is now embedded in many retail offers – from dynamic and time-of-use pricing to hybrid models, combining stability and responsiveness, – giving consumers new ways to reduce bills and support grid stability.

[35] This measure is mandatory under Article 14 of the Electricity Directive.
[36] Regulation (EU) 2024/1747 amending Regulations (EU) 2019/942 and (EU) 2019/943 as regards improving the Union's electricity market design.

France and Spain show that flexibility can also work under regulated tariffs through mechanisms like day/night pricing and wholesale-linked structures.

Member States should accelerate smart meter deployment, supported by clear consumer engagement strategies to maximise participation in flexible offers. They should encourage all suppliers, including regulated ones, where it is feasible to incorporate flexibility features such as time-of-use or hybrid pricing while safeguarding consumer protection.

Regarding the combination of flexibility with price regulation, the framework enshrined in Article 66a of EMD ensures that households and SMEs still have incentives to reduce consumption even under regulated pricing. Several Member States successfully applied this principle during the energy crisis and the criteria set out in Article 66a could also be implemented by Member States during non-crisis periods, protecting consumers and preserving price signals.

## 2. THE ROLE OF DEMAND-SIDE FLEXIBILITY IN THE ENERGY TRANSITION

### 2.1 Flexibility as a core enabler of a consumer-centric, decarbonised electricity system

Demand-side flexibility can support an efficient, competitive retail electricity market and bring benefits to both consumers directly and to the wider system. Activating retail flexibility will help integrate the generation of variable renewables and empower consumers to better manage their energy. Realising this flexibility requires an effective regulatory framework that protects consumers, fosters equitable access, and maintains affordability. Smart metering infrastructure will be central to this change.

Overall, consumers who wish to be active and offer their flexibility to the market should be enabled to do so. For this they need a clear legal framework, innovative solutions and products that enable consumers to benefit from choice as well as fair prices and rewards. Moreover, consumers should have access to information and tools through smart metering systems[37] and effective data access arrangements that empower them to make informed choices.

It is equally important to ensure that final customers engaged in flexibility are protected with robust safeguards on contractual arrangements, transparency and information about products and prices, while ensuring data protection. Suppliers providing flexible retail contracts and especially dynamic price contracts, should adequately inform consumers about the associated risks and benefits of these offers.

Finally, consumer awareness must be actively fostered; targeted communication campaigns and initiatives can help highlight the potential benefits and risks of flexibility participation, supporting informed engagement and encouraging more consumers to contribute.

### 2.2 Demand response programmes

Article 2(20) of the Electricity Directive defines 'demand response' as the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or in response to the acceptance of the final customer's bid to sell demand reduction or increase at a price in an organised market, whether alone or through aggregation.

Demand response programmes are generally divided into price-based (or "implicit") and incentive-based (or "explicit"). In incentive-based demand response, consumers, often through a third party, agree in advance to reduce or shift their electricity use in exchange for direct financial compensation. In practice, this type of flexibility is mainly used in balancing markets, ancillary services, and, where relevant, capacity mechanisms. Aggregators play a crucial role in combining smaller flexibility loads from households, businesses, and small industrial customers, and from storage resources, into volumes large enough to participate meaningfully in electricity markets and provide services to the system.

Making sure that aggregators, including independent aggregators, can access markets on transparent and non-discriminatory terms, and that consumers can easily sign up to their services, is essential to unlocking incentive-based demand response.

Flexible retail contracts fall under price-based demand response. In that case, consumers react to electricity prices that vary over time – such as time-of-use tariffs, dynamic pricing, or critical

[37] According to the definition in Article 2(23) of Directive (EU) 2019/944, *'smart metering system' means an electronic system that is capable of measuring electricity fed into the grid or electricity consumed from the grid, providing more information than a conventional meter, and that is capable of transmitting and receiving data for information, monitoring and control purposes, using a form of electronic communication*.

peak pricing – and adjust their consumption accordingly, without entering into a separate explicit commitment to deliver a specific load reduction.

### 2.3 Legal framework

The Clean Energy Package introduced the framework for demand flexibility, including the definition of key roles and responsibilities among market participants, and the modalities governing flexible retail electricity. Together, Directive (EU) 2019/944, as amended by EMD[38], and Electricity Regulation (EU) 2019/943[39] (hereinafter 'Electricity Regulation'), as amended by Regulation (EU) 2024/1747[40], provide the legal framework for flexible retail offers including provisions which allow consumers to have separate contracts for flexible loads, like electric vehicle charging and heat pumps, from their primary household use.

Demand response is most effective when consumers have access to market-based retail prices, as required by Article 5 of the Electricity Directive. In Member States where price interventions remain in place, the transition away from them must be carefully managed to safeguard affordability, while enabling clear price signals that underpin flexible electricity supply contracts.

Article 11 of the Electricity Directive complements the basic provisions on free choice of supplier and market-based supply prices by requiring that at least one dynamic electricity price contract is available in the market for final customers with a smart meter. To ensure transparency and trust, and to facilitate informed decisions, suppliers are required to describe in clear terms the possible benefits and risks before customers sign up.

These provisions are reinforced by Article 13 on aggregation contracts and Articles 15 and 17, which define the regime for active customers and demand response by means of aggregation. Member States are obliged to ensure non-discriminatory access to all electricity markets for consumers and aggregators, establishing suitable market mechanisms that allow flexibility to participate and be properly valued in all markets.

Forthcoming rules, such as the network code on demand response[41], which will set out a common EU framework for activating and remunerating flexibility across markets, together with the implementing act on data interoperability for demand response[42], which will facilitate access to relevant data, are expected to complement the existing framework and further support the uptake of demand response. In addition, the code of conduct for smart appliances[43] will help ensure that connected devices in smart homes can seamlessly respond to flexible supply contracts, strengthening both consumer participation and system efficiency.

### 2.4 Smart metering as a foundational enabler

Smart meters are an essential requirement for consumers to participate in flexible energy consumption, making time-based billing possible, enabling real-time insights, and supporting automation. They also provide improved, secure access to metering and consumption data and

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38 Directive (EU) 2024/1711 of the European Parliament and of the Council of 13 June 2024 amending Directives (EU) 2018/2001 and (EU) 2019/944 as regards improving the Union's electricity market design (OJ L, 2024/1711, 26.6.2024), ELI: http://data.europa.eu/eli/dir/2024/1711/oj.

39 Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) (OJ L, 2019/158, 14.6.2019, p. 54), ELI: http://data.europa.eu/eli/reg/2019/943/oj.

40 Regulation (EU) 2024/1747 of the European Parliament and of the Council of 13 June 2024 amending Regulations (EU) 2019/942 and (EU) 2019/943 as regards improving the Union's electricity market design (OJ L, 2024/1747, 26.6.2024), ELI: http://data.europa.eu/eli/reg/2024/1747/oj.

41 The legal basis for this network code is in Article 59(1)(e) of Regulation (EU) 2019/943.

42 The legal basis for this implementing act is in Article 24(2) of Directive (EU) 2019/944.

43 EC-JRC website on Code of Conduct for Energy Smart Appliances, accessed on 25.9.2025; url: https://ses.jrc.ec.europa.eu/development-of-policy-proposals-for-energy-smart-appliances.

help final customers receive clear cost estimates and tailored offers. This empowers them to make informed choices. In Member States where deployment is more advanced, consumers are already enjoying products tied into wholesale market prices that incite responsiveness on the demand side and help to lower system costs.

While the deployment of smart metering systems across the EU has advanced considerably, the situation remains uneven. The penetration rate for electricity smart metering in the EU-27 stood at around 60% at the end of 2024, based on data from ACER-CEER[44]. Fifteen Member States have reached penetration levels above 80%, including ten Member States that are close to full coverage. Twelve Member States remain below 80%, of which seven Member States are lagging either due to delays in their rollouts or because they have not yet decided to go ahead with a large-scale deployment. The following graph shows the penetration of smart meters across the EU.

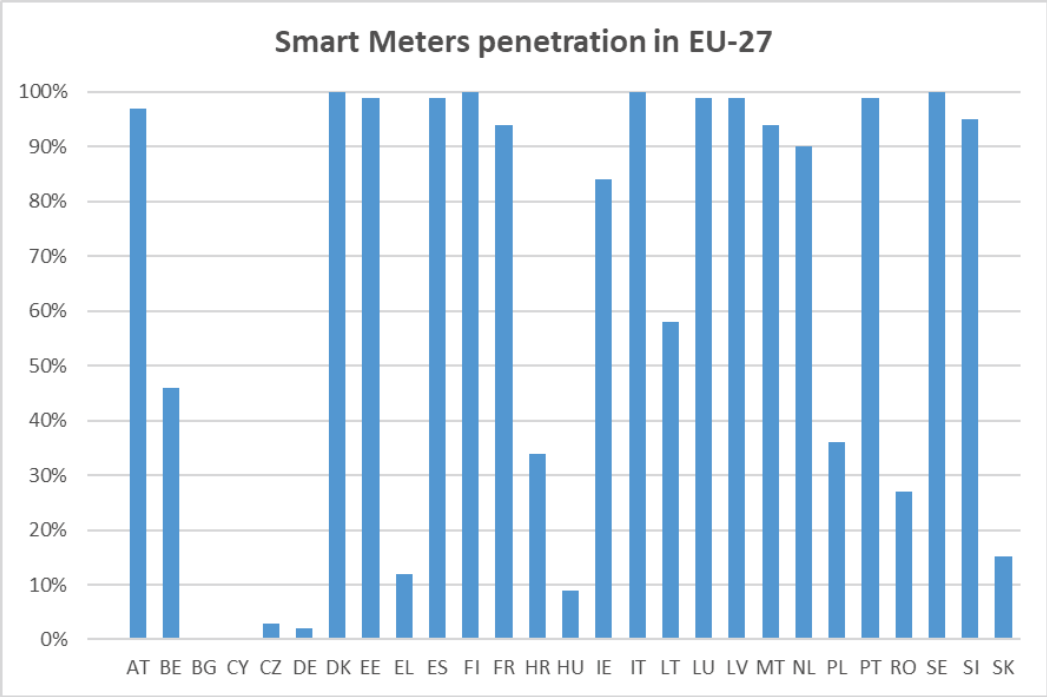


Figure 1: Smart metering deployment in the EU (based on data from ACER-CEER MMR 2024 and ACER country sheets (July 2025).

Smart metering systems must incorporate the functionalities set out in Article 20 of the Electricity Directive. Functionalities such as the delivery of validated measurement data and the near real-time data provision that reflect the imbalance settlement period in the national market are crucial to help introduce energy services that reward flexible consumption patterns.

Furthermore, consumers need appropriate advice and information prior to or at the time smart meters are installed. This is essential to build consumer trust and enable informed choices. Such advice and information should aim not only to raise awareness of the options available to consumers, but to also build understanding of how flexibility-enabled appliances (such as heat pumps, electric vehicle chargers, or smart home devices) can interact with smart meters. This will help accelerate the effective use of flexibility in retail markets by promoting the practical integration of flexible appliances and smart metering infrastructure.

[44] ACER-CEER, Energy Retail Market Monitoring report 2024 (September 2024) and ACER Electricity country sheets monitoring data 2024 (July 2025).

Interoperable access to metering and consumption data is equally critical to fully harness the potential of smart meters and to facilitate flexibility services. The Commission is preparing the ground for more specific technical rules on data interoperability for demand response. Enabling access to metering data is essential not only to support demand response services but also to foster innovative retail offers and empower consumers to actively manage their consumption and flexibility potential.

In this regard three priorities stand out:

- **Rapid deployment:** ensuring that smart meters are deployed without delay and fitted with functionalities that enable dynamic prices, near real-time feedback, and interoperability for seamless data access in a secure manner.
- **Interoperable access to data:** EU data access requirements, including Regulation (EU) 2023/1162[45,46], ensure that both service providers and consumers can readily and effectively make use of metering and consumption data in flexibility services.
- **Consumer engagement:** to be fully effective, smart meter rollout is best accompanied by clear communication, in-home displays, and digital tools that allow consumers to view, understand, and act upon their consumption and energy cost data.

### 2.5 Promoting fit-for-purpose flexible retail contracts

Flexible retail contracts enable consumers to interact with the market through price signals, manage their electricity use and lower their bills, while allowing for better peak management. They also support system efficiency and the integration of renewable generation, by incentivising consumption during periods of abundant low-cost, low-carbon electricity.

There are different types of flexible electricity supply contracts that are suitable for different consumer profiles:

- Dynamic pricing contracts[47], which are based on wholesale market prices, provide consumers with price signals that encourage real-time adjustments of their energy use. They are particularly relevant for consumers with flexible assets, such as electric vehicles and heat pumps, that can easily shift their demand and reduce their energy bills considerably.
- Time-of-use supply products which divide the day into a limited number of price intervals (e.g. day/night or peak/off-peak zones). They are less complicated and more predictable and are accessible to end-users with fixed load-shifting ability.
- Hybrid contracts, which often integrate a fixed and a flexible pricing element, for consumers who wish to have a more predictable energy cost. They permit the consumer to realise the advantage of flexibility while avoiding full exposure to price volatility.
- Critical peak pricing (CPP), where electricity prices are raised substantially during periods of excessive demand or tight supply (e.g. where the contribution of renewables is low).

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[45] Commission Implementing Regulation (EU) 2023/1162 of 6 June 2023 on interoperability requirements and non-discriminatory and transparent procedures for access to metering and consumption data, OJ L 154, 15.6.2023, pp. 10–40, ELI: http://data.europa.eu/eli/reg_impl/2023/1162/oj.

[46] Regulation (EU) 2023/1162 provides a transparent framework for enabling final customers and eligible parties to access validated historical and non-validated near real-time metering and consumption data in a timely, simple and secure manner. The Regulation sets rules that facilitate the interoperability of data access and exchange by market participants, while promoting energy services and competition in the retail market.

[47] Dynamic pricing is often referred as real-time pricing (RTP), see for example Florence School of Regulation, *'Dynamic Retail Electricity Tariffs: Choices and Barriers'*, 2020.

These collectively provide the consumer with ample choice that harmonises with their ability and willingness to engage with flexibility.

**Dynamic electricity price contracts**: Dynamic price contracts link retail prices directly to wholesale market prices, typically the day-ahead or intraday market. They can offer significant energy cost savings to consumers with flexible assets and a willingness to manage price risk, such as owners of electric vehicles (EV) or households with smart heating systems, as they allow consumers to benefit from lower prices when renewable generation is abundant, while being exposed to higher prices when the system is tight[48].

According to ACER-CEER data[49], dynamic price contracts are available to households in 16 Member States; however, only a few countries show considerable uptake of such contracts[50]. Several Member States with very low smart meter penetration do not offer dynamic price contracts at all, with only a few exceptions. In these markets, the absence of enabling infrastructure explains the lack of flexible retail offers, highlighting the importance of accelerating smart metering rollouts to unlock demand-side flexibility.

**Legal framework and main principles for dynamic electricity price contracts**: The Electricity Directive defines 'dynamic electricity price contract' as a supply contract that reflects prices in spot markets at intervals at least equal to the market settlement period[51]. All consumers with a smart meter enjoy the right to a dynamic electricity price contract by at least one supplier and all suppliers with more than 200 000 customers in the country. Dynamic price contracts should provide consumers with a close reflection of market price fluctuations, allowing them to respond accordingly. The overall objective is that final customers under dynamic price contracts adjust their consumption patterns in a flexible way, helping to mitigate wholesale price spikes.

Article 11(1a) of the Electricity Directive requires that, prior to the conclusion or extension of any contract, including a dynamic price contract, customers are informed about the total price and its breakdown, as well as whether the price is fixed, variable or dynamic. While it is not possible with a dynamic price contract for the suppliers to communicate the final price to the consumer weeks on beforehand[52], they should be in a position to clearly communicate how spot-market prices translate into consumer prices.

Furthermore, and regarding consumer protection, in line with Article 11(2) of Directive (EU) 2019/944, final customers need to be fully informed by the suppliers of the opportunities (e.g. lower costs when adapting consumption to cheaper periods, participation in renewable integration), costs and risks (e.g. exposure to price spikes, greater bill volatility for consumers without flexibility). It is equally important to inform final customers about the technical prerequisites, particularly the need for an adequate smart meter.

**Hybrid contracts**: Dynamic price contracts may not be suitable for all customers. The circumstances of some consumers may be such that they are limited in terms of the flexibility

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48 On the basis of data from ACER 2025 market monitoring report (*'Rewarding Flexibility: How retail contract choice can help unlock consumer flexibility*') and the Commission's own calculations, electricity consumers could achieve savings of up to 40% if they switch to a dynamic price contract and actively manage their consumption.

49 ACER-CEER Energy Retail MMR report 2024 (Table Annex 3).

50 According to ACER electricity country sheets (July 2025), only in few Members States is the penetration of dynamic price contracts above 5% (FI, LV, NL, SE, ES).

51 'Dynamic electricity price contract' means an electricity supply contract between a supplier and a final customer that reflects the price variation in the spot markets, including in the day-ahead and intraday markets, at intervals at least equal to the market settlement frequency.

52 As required by Article 10(4) of Directive (EU) 2019/944.

they can provide under a dynamic price contract. Other consumers may be concerned about exposure to financial risk during periods of intense price volatility.

Recent energy price spikes have made this even more obvious, highlighting the need for contract options that offer both flexibility and stability. Hybrid pricing contracts provide a blend of stability and flexibility that can be ideal for consumers who want to keep their energy bills predictable but are also open to saving money by adjusting how and when they use electricity. By combining predictability with responsiveness, hybrid contracts can be tailored to diverse consumer needs and have the potential to offer a degree of security alongside a level of flexibility, thereby providing consumers with more choice, control, and confidence in managing their energy use.

ACER-CEER[53] identify different types of hybrid contracts. Some hybrid contracts are designed to protect consumers from price spikes while still reflecting market trends. For example, price caps, so that the consumer does not experience unexpectedly high bills. Other contracts offer free or discounted hours encouraging consumers to shift their usage to those lower-cost periods. There is also the possibility of tailor-made contracts for EVs, which combine flat off-peak rates with smart charging incentives. Such contracts could accommodate bi-directional charging capabilities, providing specific incentives for consumers to discharge at times of peak demand, and to charge when prices are low.

To support the uptake of hybrid contracts, Member States should create regulatory conditions that allow suppliers to experiment with innovative hybrid offers, while guaranteeing transparency, comparability, and consumer protection. Making such products visible through price comparison tools will be crucial to allow consumers to make informed choices and avoid confusion.

**Examples from Member States**[54]

In **Finland**, a hybrid contract[55] combines fixed and flexible pricing. Consumers pay a fixed price for their consumption but can reduce their bills by shifting usage to hours with cheaper prices (e.g. between 1:00 am and 6:00 am). They can benefit by correctly timing energy-intensive activities such as EV charging or water heating, while avoiding the risk of significant price hikes when compared to a dynamic contract.

Also, in Finland[56], a variation of fixed and flexible pricing combines a fixed-price contract with a monthly 'consumption impact' where consumers, based on information received through an application, can adjust their electricity usage to take advantage of cheaper days and hours, thereby lowering their final electricity cost.

In **Belgium**, a contract[57] offers fixed off-peak hours in three time zones, combining zones with low rate and zones with a very low rate. The customers can be informed of the different

[53] ACER-CEER, Energy Retail Market MMR 2024.

[54] The examples presented in this document are only for illustrating the types of contracts under discussion. They are not an exhaustive list of products available across the EU.

[55] 'Välkky' contract offered by Väre Ltd.

[56] 'Oomi Flex' contract offered by Oomi Oy; the company estimates that 90% of customers under this flexible contract pay less in comparison to a fully fixed-price contract by timing their electricity usage. Customers can pay more that the fixed rate if they do not time their consumption accordingly. The application plays a key role by informing customers on the most cost-effective consumption periods.

[57] 'Empower Flexi-time' contract offered by ENGIE, for customers with greater consumption who are able to shift a significant part of their electricity consumption (for example electric cars, smart batteries or programmable energy intensive devices).

time zones through an application and optimise their consumption. EV owners can use a smart-charge feature.

In **France**, an EV-specific contract[58] combines a charging station, a dedicated electricity tariff, and an application through which the user has access to monitoring and smart charging services. Customers can charge their vehicles during low-cost periods and optimise charging and savings through the smart charging feature.

**Critical peak pricing (CPP)**: Article 7a of the Electricity Regulation sets out a special peak-shaving product, which is meant to be used only in times of electricity price crisis[59]. This temporary and time-bound regulated peak-shaving mechanism can coexist with market-based CPP offers. These already exist in some Member States, where suppliers offer peak pricing products to incentivise consumers to reduce demand during high-cost periods as part of normal retail operations. Such commercial CPP products are part of regular retail innovation and consumer choice.

**Enhancing choice through multiple supply contracts:** The amended Article 4 of Directive (EU) 2019/944 strengthens consumer rights by ensuring that all final customers are free not only to choose their electricity supplier, but also to conclude more than one supply contract simultaneously, by having several metering and billing points at customer's premises linked with a single connection point. This option can be enabled by smart metering systems or submeters[60].

This new provision has important implications for promoting flexibility in retail contracts. In particular, it gives consumers the option of disaggregating their electricity demand across different contracts depending on the nature of their loads. Therefore, consumers can cover their electricity needs by using different contracts for their devices. For example:

- Electric vehicles (EVs): customers may choose a dynamic or time-of-use contract for EV charging, optimising costs by shifting charging to low-price hours.
- Heat pumps: heating loads could be covered by a time-of-use contract, or where the installation permits by a dynamic price contract or a hybrid contract.
- Household base load: the remainder of the household demand can be covered by a conventional fixed contract, providing predictability for daily consumption.

Such contractual separation avoids the 'all-or-nothing' choice that consumers may face by adopting a dynamic contract for their entire household consumption. Instead, households can combine stability with flexibility by keeping part of their demand shielded from any price risk, while exposing flexible loads to appropriate price signals.

**Interaction with network tariffs:** Network charges constitute a considerable part of the electricity bill[61] and with grid investments expected to increase in the coming years, this share is likely to rise further[62]. Cost-reflective network tariffs can provide incentives to shift demand away from peak periods, reduce overall system costs, and complement flexible retail

58 'Ma Recharge Intelligente' contract offered by ENGIE.

59 As declared in accordance with Article 66a of Directive (EU) 2019/944.

60 According to Recital 19 of Directive (EU) 2024/1711, advances in metering and sub-metering technology combined with information and communication technology make it technically possible to have multiple suppliers for individual premises.

61 According to ACER-CEER Energy Retail MMR 2024, network electricity costs represent 24% of the EU average electricity bill. While network costs used to represent a higher share of the electricity bill, due to the recent electricity price hikes the energy component has been the primary driver of the overall energy cost borne by consumers.

62 COM (2025) 4010 final 'Guidelines on future proof network charges for reduced energy system costs'.

contracts[63]. To maximise effectiveness, tariff structures should reflect system costs, encourage load shifting at peak times, and remain fair and affordable for all users, including those with limited flexibility potential. The advantages of reduced grid congestion should lead to lower system costs.

Cost-reflective network charges, in line with the Commission's 2025 Guidance on distribution tariff design[64] can align incentives and further reward demand shifts in situations where suppliers offer dynamic or hybrid contracts. Member States and regulators are therefore encouraged to ensure that network tariffs are cost-reflective and provide flexibility signals that are consistent with flexible retail contracts. This requires close coordination among regulators, system operators and relevant stakeholders.

In order to encourage and support the development of flexibility, Member States, in cooperation with regulatory authorities and suppliers, should in particular focus on the following aspects:

- **Diversify retail products** by supporting the introduction of dynamic, time-of-use and hybrid products that limit market exposure while preserving price signals, so that consumers with differing degrees of willingness and ability to take risks have the choice of a flexible contract.
- **Incentivise innovation** by encouraging pilot projects and regulatory sandboxes for new products in the market such as hybrid contracts. Complement this with fair, time-limited and appropriate incentives, designed in a socially calibrated way, to support the initial uptake of flexible offers and enabling devices (e.g. EV and heat pump integration, smart controllers). These incentives should be carefully structured to avoid regressivity and ensure vulnerable and energy-poor households are not excluded.
- **Ensure that participation to flexibility remains voluntary,** transparent, and tailored to different consumer needs, with safeguards for energy-poor and vulnerable customers. Member States should ensure that retail offers reward flexibility, while protecting those consumers that are less able to engage. Member States should also make sure that consumers are well protected against unfair marketing practices, including aggressive telemarketing and misleading information, which could result in consumers entering into dynamic price contracts that do not match their needs.
- **Ensure the availability of fit-for-purpose smart metering and optimal access to data** by accelerating smart meter rollout and fully enforcing data access interoperability requirements (Implementing Regulation (EU) 2023/1162), thereby enabling timely and secure access to information for consumers and service providers. Guarantee minimum standards in line with the mandated functionalities (Article 20 of the Electricity Directive) for smart meter coverage, near real-time data access, and automation hooks, so consumers and third-party tools can respond effectively.
- **Raise consumer awareness** by providing clear information regarding the advantages, disadvantages, and appropriateness of each contract type. This could include clear and simple campaigns through various communication platforms and means, covering price formation, typical bill impacts for different consumer profiles, risk scenarios, and complaints channels.

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[63] Flexible distribution network tariffs can provide an additional lever for incentivising flexible consumption. Currently a number of Member States already apply optional or mandatory 'night-day' or other time-of-use network tariffs (ACER, *'Unlocking flexibility: No-regret actions to remove barriers to demand response'*, 2025). Network tariffs can be charged either directly through a grid service contract or indirectly through the energy supply contract.

[64] C OJ C, C/2026/126, 9.1.2026, ELI: http://data.europa.eu/eli/C/2026/126/oj

- **Require electricity suppliers to provide illustrative bill comparisons**, showing what a consumer would have paid under dynamic, fixed, or time-of-use offers, based on historic consumption data. Independent customer risk-profiling methods could also be used by suppliers before a contract is concluded with a customer. Suppliers should be obliged to disclose the relevant information regarding the allocation of risks and remuneration principles in a standard format established by the national regulatory authority. Moreover, during the contract performance, suppliers could provide personalised information and advice to help consumers adjust their consumption habits
- **Require online comparison tools to present not only prices** that different dynamic pricing products offer **but also risk exposure and potential savings** for the consumer, in comparison with fixed-price or other time-differentiated products. Such tools should be neutral, publicly overseen to ensure trust, and accessible to less digitally-skilled consumers.
- **Promote the use of automation technologies** (e.g. home management systems and smart thermostats, EV smart chargers, smart devices) that help consumers capture the benefits of dynamic pricing without constant manual intervention. In developing any national initiatives relating to smart appliances, Member States are invited to build on the EU code of conduct for interoperable energy smart appliances so as to encourage the uptake of appliances with interoperable and open flexibility features, rather than developing national approaches that risk causing fragmentation in the single market for appliances such as heating, ventilation, air conditioning (HVAC) or white goods[65].
- **Address digital inclusion and equitable access** by ensuring that consumers with limited digital skills or connectivity are not left behind. Measures could include offline access points, helplines, paper-based comparison tools, and targeted support through consumer organisations. Such steps are essential to guarantee that flexible offers are accessible to all households and do not risk being underused due to digital barriers.
- **Ensure that national consumer organisations and energy regulators develop simple guides** explaining which consumer profiles are most suited to dynamic, time-of-use or hybrid contracts. Guides should also highlight targeted safeguards available to vulnerable and energy poor consumers, such as optional 'bill-stabiliser' features within flexible contracts. These mechanisms cushion households from short-term volatility or temporary extreme price spikes while preserving the incentive to shift demand, and can be designed as optional add-ons, targeted measures for vulnerable groups, or temporary instruments activated during crisis periods.
- **Monitor and report progress**. Member States and/or regulators should track the take-up of dynamic price contracts and the impact on electricity costs for consumers and report their findings accordingly to inform evidence-led adjustments in the market (Article 11 and Article 59 of the Electricity Directive). Monitoring should include equitable and distributional outcomes, consumer complaints, and the effectiveness of protection measures, to ensure continuous, evidence-based adjustments. In that context, it is also recommended to monitor the development of other flexible retail contracts by considering similar aspects.

[65] The Commission will ensure that models declared as compliant with the code of conduct of the signatory manufacturers can be found when searching on the European product registry for energy labelling, EPREL (url: https://energy-efficient-products.ec.europa.eu/eprel_en).

## CONCLUSIONS

Article 5 of the Electricity Directive provides a structured yet flexible regulatory framework for public price interventions in the electricity retail market. It empowers Member States to respond to specific challenges provided these objectives align with general economic interest and the principles of the Electricity Directive. This adaptability allows tailored policy responses while preserving the cohesion of the internal energy market. The criteria outlined in Article 5 also guide the implementation of crisis-specific interventions under Article 66a of the EMD, ensuring regulatory consistency during emergencies. By confining interventions to these specific cases, the Directive reinforces the market's core principle of supplier-driven pricing, ensuring that interventions remain rare and time-limited. Interventions should be accompanied by structural measures to develop effective competition or address energy poverty.

Article 5 provides a resilient and adaptable framework that addresses immediate vulnerabilities without compromising the long-term evolution of a unified, dynamic EU energy market. The Commission has highlighted in this report practices to assist Member States improve the implementation of Article 5. The European Commission does not at this stage propose to introduce a new legislative proposal in relation to Article 5. However, the Commission will continue to keep under review the implementation of Article 5 along with supporting the inclusion of more flexibility in retail markets.

Monitoring of recent developments confirms that retail flexibility is increasingly recognised as an important element of achieving a consumer-centric, affordable, and resilient energy system. Dynamic, time-of-use and hybrid contracts are now available in a growing number of Member States, supported by the gradual rollout of smart metering and clearer data access rules. Where these conditions are in place, consumers are better able to participate actively in the market, adjust their consumption, reduce their bills, and contribute to overall system efficiency.

At the same time, the analysis shows that further progress is required. The deployment of flexible retail electricity contracts can be accelerated through effective implementation of the Electricity Directive and Electricity Regulation, as well as through the development of suitable frameworks that facilitate the availability of flexible offers in the market. Member States and regulators therefore have an important role vis-à-vis key stakeholders in encouraging the uptake of flexible retail contracts and identifying and reducing barriers to their adoption.

Flexibility should not be promoted indiscriminately. Instead, it must remain voluntary, transparent and tailored to different consumer needs, with safeguards for vulnerable and energy-poor customers. Retail offers of this type are most effective where flexibility can genuinely be delivered, while consumers less able to engage require appropriate protection.

Member States are called upon to implement the good practices contained in this report to support national approaches to promoting flexible retail market contracts. For dynamic electricity pricing to function effectively, consumers need clear and transparent information on prices and electricity consumption to enable informed choices. Consultation feedback[66] confirmed that transparency and comparability are essential to build trust, while gaps in smart metering and data access remain major barriers. Without such support, unexpected increases in bills could undermine trust and slow down the transition towards a more flexible demand side.

[66] See feedback to the open consultation held by the European Commission under the 'Citizens Energy Package: Protecting and Empowering Consumers in the Just Transition' (open consultation, Initiative No 14737), *Have Your Say* portal, accessed 25.9.2025; url: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14737-Citizens-Energy-Package-protecting-and-empowering-consumers-in-the-just-transition_en.

In parallel, it is important to support the introduction of other flexible contracts, such as time-of-use and hybrid products, to meet the needs of a wider customer base. Public input showed strong support for hybrid models as a balanced solution between price signals and consumer protection. Safeguards should therefore be in place to ensure that all contracts remain voluntary, transparent, and comprehensible, with special attention paid to consumers who may be less able to assess the risks and opportunities of such products. Stakeholders also underlined the need for proportionate protections, particularly for vulnerable consumers, while cautioning against blunt measures that could weaken effective price signals.