

REScoop.eu's response to CEER's draft strategy “Empowering Consumers for the Energy Transition”

1. To what extent have we captured with the three regulatory dimensions energy regulators' proper focus to empower consumers for the energy transition?

For REScoop.eu, consumer empowerment does not only include the ability of consumers to have access to information and have a choice of supplier, but first and foremost it is about making sure that consumers can actually participate - both individually and collectively - in the market as new market actors and take ownership of the energy transition.

As such, we welcome CEER's foundation of its strategy on the ASPIRE principles, in particular its approach to 'empowerment'.¹ Specifically, it recognises the active role that citizens can play in the energy market - not just as an informed consumer. We also welcome the significant focus on the role of energy communities in CEER's core area of decentralised and local energy, as this is where energy communities can provide significant added economic, social and environmental value for their members, the energy system, and society.

We would like to provide some insights into the transposition process of the recast Directive 2018/2001 (RED II) and the recast Directive 2019/944 (IEMD) that is currently in progress in several Member States. Specifically, we observe that many Member States have transposed the Citizen Energy Communities (CECs) and Renewable Energy Communities (RECs) definitions, as well as their respective provisions, by copy-pasting the text of the EU

¹ On page 17 of CEER's draft strategy, which analyses the ASPIRE principles, it states that '*Empowerment states that the same level of protection should be enjoyed by consumers regardless of whether they have a traditional supplier or rely on new energy services, regardless of company. According to this principle, consumers should also be able to easily contribute to the transition by producing and selling their own electricity and by taking part in demand-side response schemes, etc. In this context, correct price signals and low thresholds to enter the market are important*'.

Directives without providing more details. In addition, several Member States have left technical and regulatory aspects of the enabling frameworks highlighted in article 22(4) of the RED II and article 16(1) of the IEMD to secondary by-laws, decrees or regulations. Therefore, we foresee that national energy regulators will play a large role in the further development and implementation of enabling frameworks and a level playing field for energy communities.

CEER provides a long list of Megatrends and acknowledges that there are many regulatory implications for each megatrend. We believe that these megatrends signal the need to re-envision how markets should operate for the good of society and local economies. Energy communities are proof that not all market actors enter the market for commercial gain. When it comes to non-commercial market actors that adopt alternative business models, it is fair to question whether it is feasible or desirable to regulate such enterprises - in this case energy communities - in a similar way as other market actors. In trying to answer this question, we should keep in mind that energy communities are new market actors with specific characteristics. As such, their integration into the market may not be compatible with traditional or existing regulatory tools/practice. As a result, in order for energy communities to be integrated into the market, the market should be changed, traditional market regulations need to be adapted, and space should be created to ensure energy communities can operate in the market.

2. Are the six core areas the appropriate areas of focus for CEER's work in 2022-2025?

As mentioned above, we welcome CEER's significant focus on energy communities in its core area of decentralised and local energy. We believe that the six core areas for CEER's work in 2022-2025 have been accurately identified, placing consumers at the center of the energy markets and the energy transition and planning for consumer empowering regulation.

We would like to raise some points on how CEER's work could be effectively directed towards building enabling frameworks for energy communities, specifically regarding chapter 5 (Placing consumers at the centre of energy markets with consumer-centric dynamic regulation, empowering consumers to actively contribute to and benefit from a flexible energy system) and 6 (Ensuring well-functioning markets delivering flexibility).

First, we would like to point out that a global shift from fossil and nuclear energy sources to an 100% renewable energy sources (RES) system is required for the transition to a sustainable future and for the achievement of the goals set in the Paris Agreement and at an EU level. We promote a model based on cooperation: a decentralised approach to the energy transition, one that gives the means to people across Europe to produce and consume their own energy and to invest together in renewable energy, energy efficiency, and other clean energy technologies: energy democracy.

Europe's future energy system must be sustainable, carbon-free, socially fair, publicly owned and controlled by local communities and people. The key to success for the energy transition is the empowerment of citizens. First of all, the potential for people - individually and through their community, public entities and small enterprises - to actively engage in the energy transition is significant. By 2050, at least half of EU citizens could be producing their own renewable electricity, meeting at least 45% of the EU's electricity demand.² Also, citizen participation through energy communities in the energy transition is connected with several additional benefits: energy communities foster social acceptance for renewable energy (and thus accelerate the decarbonization of our energy system), maintain benefits from renewables locally by creating jobs, boosting local investment (this can be a response to the COVID-19 crisis, as money do not fly away from the local economy and out of the country to purchase fossil fuels), provide services such as education and encourage citizens to save energy, promoting behavioral change. Finally, they also contribute to the fight against energy poverty.

As far as energy system integration and active consumers is concerned, we believe that market rules need to be amended to allow for more consumer participation. Although markets can send consumers smart signals, this is not enough, as they must also be designed in an inviting way. In line with this, CEER acknowledges the need to rethink regulatory frameworks. CEER also acknowledges that rules and administrative procedures for energy communities need to be simple so that they do not face undue or discriminatory costs or burdens. We agree with this statement. In putting it into practice, we urge CEER to explore certain issues, including the following:

- **Grid Access:** Many energy communities experience significant difficulty in obtaining grid access. In particular, where grid access is provided on a first-come-first-served basis, energy communities are unable to move as fast as professional market actors. If reinforcements are needed, energy communities are not in a position to finance this type of work. This places significant limitations on energy communities' ability to negotiate an agreement with the DSO and still construct a bankable project. CEER should look at ways grid connection processes could be simplified for community renewables production projects in a non-discriminatory manner, including through reduction of administrative procedures and costs.
- **Registration for licensing of supply and production:** Energy communities face barriers in notifying themselves to regulators through registration procedures. Specifically, the format of registration platforms and the detailed information requested, can make it very difficult for non-professionals to register. This is especially true in Portugal, where a condominium looking to create energy communities has had to hire external consultants for the registration process

² More Information on the potential of citizen participation in the energy market can be found here: <https://ce.nl/publicaties/the-potential-of-energy-citizens-in-the-european-union/>.

only. National energy regulators could look at ways to make registration more simple, transparent and accessible for active consumers and energy communities.

- **Access to renewables support schemes:** While competitive bidding may be the direction of travel for larger projects seeking support, competitive bidding processes should not be the general rule to allocate investment and operating aid for energy communities. Such procedures lead to inequalities between the different market actors, where larger bidding participants are able to bid strategically due to their market power, preventing fair competition and obstructing the diversity of actors. In line with the EU law principle of equal treatment, if one accepts that RECs, which take on a non-commercial purpose and integrate unique ownership and governance principles, are different from other traditional commercial energy companies, then legislation and regulation must take into account these differences to ensure equality in the internal electricity market. Thus, we urge CEER to look more comprehensively at the impact that competitive bidding has on RECs, and to explore how special procedures and other considerations for RECs in national renewables support schemes impact their ability to access support, as well as their broader impact on competition and local development.

- **Acknowledging benefits that energy communities provide:** CEER's draft strategy states that *'Market design must ensure that all forms of energy - supply and demand; centralised or decentralised; large-scale and micro-production - are able to participate in the market. All actors should be compensated fairly for the benefits they bring to the system and, conversely, bear the costs of the constraints or costs that they generate'*. We agree with this statement. Nevertheless, we would like to point out that energy communities deliver benefits outside of monetary and energy system benefits: they foster social acceptance and contribute social innovation to fight energy poverty and support vulnerable consumers. Furthermore, energy communities deliver social and environmental benefits in the local area that they operate. These additional and non-monetary benefits, as well as valuation, should be better studied so that they may be taken into consideration when providing support to energy communities, including through financial incentives, such as special tariff schemes or tax reductions. We would like CEER to explore how these benefits can be acknowledged, not just through the energy bill, but through other potential alternatives.

- **Becoming a supplier:** in countries where REScoop.eu members have projects for energy sharing and collective self-consumption, they faced high barriers to obtain the right to supply, even in a geographically limited space and to a small group. The licensing model used in the majority of Member States place the same burdens on large supplier with millions of clients, and an energy community with 5000 to 9000 clients. This often creates an insurmountable hurdle for energy

communities wanting to supply energy to their members. CEER should study supply license regulations and procedures in different Member States, as well as explore alternatives to traditional supply licenses for energy community projects, particularly those that have a local dimension.

With regard to flexibility, we welcome CEER's openness to looking at how specific aspects of the development of flexibility markets might impact energy communities. In particular we would like to highlight the following aspects, which CEER might consider in its work:

- **Preconditions for utilising energy communities' flexibility and managing congestion efficiently in system operation:** DSOs are critical partners for putting in place energy community projects, including new decentralised renewables generation, collective self-consumption and energy sharing. However, if the network is not fit to welcome installations, dialogue often quickly concludes in a dead-end. Equipping DSOs with the right tools to procure flexibility is important, but it should go together with: (i) enhanced network planning that takes energy communities, including their potential growth; (ii) increased transparency on the situation of the network (substations areas, existing congestions); (iii) increased transparency when refusing a production project; and (iv) increased capability to dialogue REC/CEC projects to support their implementation. CEER should monitor developments in this area, helping develop best practices and providing recommendations or guidance on building partnerships between DSOs and energy communities.
- **Interaction with new market actors like aggregators or energy communities:** The REC and CEC definitions open the way to new types of actors, including citizens, local authorities and SMEs cooperating on (local) energy projects. These types of alliances are new in the energy sector and may require a prospective vision in order to set-up appropriate rules for such projects to flourish. While we are still looking at potential barriers to accessing flexibility schemes, we welcome the opportunity to work with CEER and national energy regulators to further explore this issue.
- **Development of common architecture in market-based flexibility and incentives:** The planned "Distribution Network Codes" may be part of the solution to questions around common rules for flexibility markets. Nevertheless, there is a big question about how to make processes transparent enough so energy communities, who are deemed to be important participants of these mechanisms, can observe or be consulted in the process of rule creation, anticipate changes, and obtain the right skills to participate in future mechanisms.

3. Please indicate if you identify any missing important topic(s) for energy regulators within the stated six core areas.

The following analysis contains a list of issues that either have not been identified in CEER's draft strategy, or could be further elaborated upon:

- **Monitoring and oversight of energy communities by national energy regulators:** Under Article 59(1)(z) of the IEMD, Member States' national regulatory authorities have a duty to monitor the removal of unjustified obstacles to and restrictions on the development of CECs. This means that NRAs will need to take an active role in learning about CECs. This requirement is broad and Member States have discretion as to what they empower NRAs to monitor. There are a number of issues that it would be useful for NRAs and other relevant regulatory authorities to monitor with relation to RECs and CECs, including:
 1. compliance with criteria for being considered a REC or CEC, as well as any potential abuse, both through illegal and legal means;
 2. statistics regarding the growth of RECs and CECs over time, as well as data regarding their activities and different local benefits (e.g. social, economic, energy system, and environmental benefits) they deliver;
 3. excessive or otherwise discriminatory connection, licensing, registration procedures and fees;
 4. complaints from RECs and CECs, or their members, that their rights have been violated.

- **RECs and national renewable support schemes:** Through its 'Status Review of Renewables Support Schemes', CEER currently monitors the move to competitive bidding for renewable support schemes. Moving forward, CEER should take a specific look at the impact of tenders and auctions on RECs. In particular, this focus should cover impacts of competitive bidding procedures on energy communities; measures that take into account the specificities of RECs; and the impact of special procedures for RECs on competition.

- **Assessment of societal costs of digitalisation and inclusion within the circular economy agenda:** CEER rightly identifies “aggravation of the energy and resource situation” as a megatrend. Digitalisation needs to be identified within this trend. Whereas technology improvements seem unavoidable for a massive use of renewables, these needs are rarely quantified and balanced against their downsides. As underlined by a study by The Shift Project, the ecological footprint of digital services and infrastructure are steadily increasing: *“The share of digital technologies in global greenhouse gas emissions has increased by half since 2013,*

from 2.5% to 3.7% of global emissions.”³ It is necessary to assess the benefits of deploying digital energy services against their societal costs. The digital sector appears to be a very linear sector: extraction and mining of resources (including rare earths) at the beginning of the chain and treatment of e-waste at the end of it are two concrete sets of activities within this process. The digitalisation of the energy sector should be accompanied by the inclusion of the digital sector in the circular economy and an assessment of the limits to the EU’s digital services’ needs.

- **Data issues:** CEER’s draft strategy does not provide much detail on data related issues with regards to the digitalization of the energy sector. Moving forward, we ask CEER to focus on this issue, in particular:
 1. How to put in place the appropriate digital energy services & infrastructure ensuring control and sovereignty on energy data;
 2. How to implement good practices related to energy data privacy and security;
 3. How to foster device communication standards opening the way to a demand-side participation not limited to few devices and brands;
 4. DSO data collection, management, and the issue of providing access to data from consumers, along with data protection.

³ See The Shift Project, “*Lean ICT, towards digital sobriety*”, 2019, available at: <https://theshiftproject.org/en/lean-ict-2/>