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# Eurogas Position Paper on Vulnerable Customers

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**Eurogas** is the association representing the European gas wholesale, retail and distribution sectors. Founded in 1990, its members are 43 companies and associations from 24 countries.

Eurogas represents the sectors towards the EU institutions and, as such, participates in the Madrid Gas Regulatory Forum, the Gas Coordination Group, the Citizens Energy Forum and other stakeholder groups.

Its members work together, analysing the impact of EU political and legislative initiatives on their business and communicating their findings and suggestions to the EU stakeholders.

The association also provides statistics and forecasts on gas consumption. For this, the association can draw on national data supplied by its member companies and associations.

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## Eurogas Position Paper on Vulnerable Customers

### Background

Energy Union puts the consumer at the centre of the retail market. Primarily this should be about enhancing customers' choices, enabling them to manage better their consumption, and delivering the benefits of a competitive energy market to all customers, including the most vulnerable. This note develops our views on the concept of vulnerability, and how an efficient competitive market offers the most effective way to meet the needs of vulnerable customers.

The Gas Directive 2009/73 EC Article 3 underlines the importance of consumer protection. This is a broad concept, which can be ensured by a variety of means, including general consumer (non-energy specific) law and self-regulation; it does not generally require a new European energy ex-ante regulation. Within the wider context of customer protection, the more specific issue of vulnerable customers arises. In the view of Eurogas it is necessary to have in place adequate safeguards for vulnerable customers in line with the requirements of Article 3 of 2009/73/EC. Eurogas endorses the view of the Energy Union paper that "energy poverty must be tackled in the wider context of social security" supplemented by best practices in the energy field\*. Foremost among these best practices are promotion of energy efficiency and advice on energy management.

Furthermore customers can be evaluated as vulnerable in different ways and at different periods of their lives. These different categories will require different considerations. A category of energy poverty, for example, mentioned in Article 3.3. may appropriately be targeted by solutions that would be unnecessary as well as inappropriate for customers judged vulnerable for other reasons.

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The definition of vulnerable customers is a matter for Member States, and will therefore likely be derived from national traditional practices and social policy, which differ from Member State to Member State. Nevertheless some key approaches may be recommended as a starting point.

#### ▪ Customers having difficulty paying their bills

Typically protection of vulnerable customers is seen as necessary to ensure that household customers with limited incomes are helped to pay their gas or electricity bills especially when an energy supply may be critical to their wellbeing. This may be linked to the issue of their ability to afford other living essentials, and therefore is an issue of Governmental Social policy to alleviate financial hardship. Eurogas considers that energy poverty is a wider welfare issue, and is best addressed as such, implying different national approaches will be justified. The welfare approach can be complemented by appropriately targeted measures to reduce energy poverty notably actions to improve energy efficiency.

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\* COM(2015)339 p. 7

### ▪ Social tariffs

Social tariffs are used for a specific targeted energy poor group in some Member States. In principle Eurogas does not support “socialized” solution via the energy bill which may complicate the perception of some customers on the costs of energy. Eurogas considers that there are other more suitable options to be explored, such as reducing in some Member States taxes associated with energy use or more efficient social mechanisms to deal with identified problems. If, however, a Member State wishes to require a social tariff, it should be transparent and focused on socially disadvantaged customers, involving minimal cross-subsidies, but a better solution may be explicit state benefit for vulnerable customers.

It is, however, important that in the debate a clear distinction should be maintained between regulated end-user prices and social tariffs. Specific, time-limited and appropriate regulated end-user prices may be necessary in circumstances where market forces are not yet in place. In pre-competitive markets notably to ensure headroom for new entrants and to protect customers from market abuse<sup>1</sup>. They should then be generally widely available for customers in those Member States, irrespective of their economic position and should not be set below market price or below cost, to minimise distortions and barriers to entry. Social tariffs where they exist can and should also be organized without market distortions. Member States should not be able to use energy poverty definitions in such a way as to block market development.

### ▪ Other Categories of Vulnerable Customers

Not all vulnerable customers are economically disadvantaged. Tailored solutions on a voluntary basis can be found for customers who are disadvantaged in other ways, e.g. customers who are visually impaired, or who are recognized for other reasons such as cognitive functioning impairment as lacking capacity to engage with bills, or use technology. It is important to facilitate their engagement in the market to benefit from the choices it offers.

### ▪ Geographically remote customers who are connected to the gas system

However, Eurogas does not see any particular actions justified for geographically remote customers who are connected to the gas system. Life in remote areas can from time to time give rise to issues on a lot of services such as the availability of public transport. Remote customers are more likely to be vulnerable if they are not connected to the gas system. Customers in remote areas who are connected, including any that may be classified as vulnerable for other reasons, should receive the same level of services as customers geographically located elsewhere. Eurogas recalls that unlike electricity, gas is not an essential service<sup>2</sup>, as it can be substituted in all its uses.

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<sup>1</sup> See opinion of advocate general Colomer, case C-265/08, 20 October 2009: “if public service can be defined, as noted by the French Conseil d’Etat as ‘the extension of the market by other means, where the market has failed, and not the other way around’, then in a situation of diminished competition, the state would have to intervene in order to mitigate the effects of this difficult situation. Yet state involvement in the market must be limited so as not to postpone true liberalisation indefinitely, and should focus on the protection of the rights of the consumer.

<sup>2</sup> European Directive 2009/72/EC (electricity) establishes that all household customers should enjoy universal service; that is the right to be supplied with electricity of a specified quality within their territory at reasonable, easily and clearly comparable, transparent and non-discriminatory prices. For gas this provision applies for connected household customers; there is no obligation to ensure all customers have a gas connection.

There is no universal supply provision for gas; the Public Service Obligation applies for those customers who do have a gas connection.

### **Eurogas Position**

Robust competition is the primary means to safeguard the interests of all energy consumers and incentivise responsible behaviour by market participants.

Robust competition entails appropriate measures to protect all customers within a market for example competition law and unfair commercial practices legislation.

The wider issue of affordability of essentials and solidarity is a matter for social welfare policy. However, the third package allows for member states to choose to address energy poverty within its definition of vulnerable customers in the context of the electricity and gas markets.

The definition of vulnerable customers is a matter for Member States, and will be derived from national traditional practices and social policy, which differ from Member State to Member State.

Responsibility for identifying whether or not a customer is vulnerable should lie with those with access to the necessary information, experience and skills for example social services. Privacy considerations may be involved, and so either authorities or the customers themselves have to inform companies about their vulnerability.

Eurogas urges the importance of each Member State's defining the concept of vulnerable customers, to deliver a clear policy framework on this issue. It should be distinct from the category of "protected customers" identified in the Security of Gas Supply Regulation.

Any definition adopted should be clearly understood by all involved, and limited to specific customer groupings. The approach should not be such as to provide general benefits to all customers (which are more accurately termed public sector obligations).

The measures involved should be well targeted, avoid being over prescriptive and, allowing a better support for those who need it, should not distort the competitive market.

Any sector specific consumer protection measures have to be designed in such a way as not to introduce distortions into the market, or create an excessive administrative burden on suppliers. Also no supplier should be unduly advantaged/disadvantaged by the nature of the adopted approach or by any exclusive aspects.

In principle Eurogas does not support cross-subsidies via the energy bill, and even special tariffs targeted at the energy poor may represent a "socialized" solution, involving a cross-subsidy from the generality of customers to vulnerable customers. It also carries the risk that some of those most in need subsidize general customers due to the difficulties in identifying vulnerable customers.

Eurogas supports the targeted use of energy efficiency measures, to combat energy poverty and gas-fired technologies are well placed to contribute to this objective. Such actions should be tailored to Member States circumstances and national policy frameworks. They should in principle be market-driven while taking into account societal benefits.