

# CEER

**Council of European  
Energy Regulators**



Fostering energy markets, empowering **consumers**.

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**PEER**

## **Draft Guide on Bundled Products**

### **A CEER Public Consultation**

**Ref: C18-CRM-PEER-07-06**  
**19 September 2018**

## INFORMATION PAGE

### Abstract

In recent years, consumers are increasingly purchasing so-called “bundled products” (also known as combined, optional or additional services). Businesses are marketing packages of combined products and/or services within a sector or across several sectors, for example broadband bundles (e.g. internet/fixed telephone/TV/mobile telephony services) or products bundled across multiple sectors (e.g. energy and household insurance; banking and travel insurance; or other combinations). The potential complexity, and multi-sectoral nature, of such products raises the question of how to help consumers make better choices when faced with complex products and markets.

On 19 September 2018, CEER launched a public consultation on a Draft Guide on Bundled Products (C18-CRM-PEER-07-06). It promotes a consistent framework for the treatment of bundled products in all EU Member States across various sectors, by setting out principles that can be adopted by companies and NRAs to better protect consumers who choose bundled products.

Interested parties (in particular sectoral regulators, consumer bodies, companies who offer bundled products in any sector) are invited to participate in the consultation, which runs for eight weeks, from 19 September until 14 November 2018.

### Target Audience

Companies (in any sector) who offer bundled products, customers who buy bundled products, price comparison website operators, consumer protection authorities, data protection authorities, consumer representative groups, sectoral regulators (e.g. telecommunications, energy, water, financial), ombudsmen, Alternative Dispute Resolution (ADR) entities, competition authorities, Member States, academics and other interested parties.

### How to respond to this consultation

Deadline: **14 November 2018**

Interested parties (e.g. regulators or their associations, consumer bodies, companies) are invited to participate in the public consultation via a [dedicated online questionnaire](#) on the Council of European Energy Regulators (CEER) website. No login is required.

## Treatment of confidential responses

All responses except confidential material will be published on the website [www.ceer.eu](http://www.ceer.eu)

In the interest of transparency and in accordance with the General Data Protection Regulation (GDPR), CEER:

- i. will list the names of the organisations that have responded but anonymise the personal data of any individual (such as members of the public) that has contributed.
- ii. requests that any respondent who does not wish their contribution to be published, to indicate this preference when submitting their response via the online questionnaire. CEER will publish all responses that are not marked confidential on the CEER website: [www.ceer.eu](http://www.ceer.eu)

This CEER public consultation is carried out in line with the Guidelines on [CEER's Public Consultation Practices](#).

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## 1 Introduction

### 1.1 Background

In recent years, consumers are increasingly purchasing so-called “bundled products” (also known as combined, optional or additional services). Businesses are marketing packages of combined products and/or services within a sector or across several sectors, for example broadband bundles (e.g. internet/fixed telephone/TV/mobile telephony services), or products bundled across multiple sectors (e.g. energy and household insurance; banking and travel insurance; or other combinations). While bundled products may result in economies of scope (supply side) and transaction cost savings (demand side), they also bring challenges and uncertainty in terms of consumer rights and protection:

- Who do I contact when one of the bundled products does not work?
- Can I change one element within a bundled package, and switch to another provider?
- Who manages and resolves my complaint?
- With whom is my contract - one or multiple companies?
- To which public authority do I turn when I have a problem (the regulator - which one?; the ombudsman; or the consumer protection authority)?

With the increased penetration of bundles, as witnessed in the telecoms sector, the effects on consumer welfare and marketing are now starting to be examined in economics literature<sup>1</sup>. EU competition law prohibits dominant firms from using bundled products (or tie-ins) to foreclose a market. Whether bundles (in general) are good or bad for consumers is outside the scope of this paper. What is clear is that bundles are here to stay. What is also clear is that bundles make it more difficult for consumers to compare offers. This raises the question of how to help consumers make better choices when faced with complex products and markets.

Currently, there is a shortage of guidance for national regulatory authorities (NRAs), ombudsmen, Alternative Dispute Resolution (ADR) bodies and companies on how best to treat bundled products. The European Commission’s Explanatory Guidelines on general consumer law do not make any explicit reference to bundles. In terms of sector specific legislation, the European Commission’s “Clean Energy for All” legislative proposals (currently the subject of trilogue discussions by the co-legislators) refer to bundles in the context of switching/termination fees for fixed term contracts, while the European Parliament has proposed that price comparison tools should also cover bundled products.

#### What is a bundle?

The shape that bundled services or products can take depends very much on the individual sectors and providers involved. Defining bundles raises all sorts of complex issues such as which services to include in the bundle(s), if there is a need for a single offer or a single price or a single invoice, which providers (and sectoral market and consumer rules) are involved. With that in mind, the principles presented in this guide are relevant irrespective of the type and range of the bundling of services and products within or across sectors.

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<sup>1</sup> [Burnett’s \(2014\)](#) analysis of the impact of service bundling on consumer switching behaviour, based on evidence from UK telecoms markets, finds that consumers who opt for bundles become significantly less likely to switch provider.

## 1.2 Objective

This public consultation document on a draft Guide on Bundled Products aims to make life simpler for consumers who buy bundled products. The draft Guide will be revised following input from the public consultation process. The Guide will be periodically reviewed and updated.

Inspired by a realisation of the growing trend in bundled services in the energy sector and noting their prevalence in the telecoms sector, the draft Guide proposes a series of principles for companies and for national regulatory authorities (NRAs) responsible for overseeing increasingly interlinked markets. Rather than recommending prescriptive obligations on companies (which is impractical given differing licence conditions from country to country and product to product), this guide develops a set of principles that encourage companies to reach better outcomes for consumers. It also promotes a consistent framework for the treatment of bundled products in all EU Member States across various sectors, by setting out principles that can be adopted by companies and NRAs to better protect consumers who choose bundled products. The document includes some examples to illustrate how the principles could be implemented in practice.

## 1.3 Acknowledgements

This [consultation paper](#) was developed by the Council of European Energy Regulators (CEER) in the framework of the Partnership for the Enforcement of European Rights (PEER). PEER seeks to enhance cross-sectoral regulatory cooperation at European level (see Annex 1). Hence, although drafted by energy regulators, it draws upon literature and experiences with bundled products in other sectors, in particular telecoms where bundling is a ubiquitous strategy of telecoms providers<sup>2</sup>. It also draws upon advice/recommendations of the European Commission to traders in several economic sectors (e.g. package travel services, telecoms and digital services, short term rental platform - Airbnb) to take corrective action to comply with general consumer law enforcement in the context of simultaneous “[sweeps](#)” (systematic compliance checks on traders) and [joint enforcement actions by the Commission and consumer protection authorities](#).

We pay tribute to the extensive work of the Body of European Regulators for Electronic Communications (BEREC) on bundled products in the telecoms sector. We thank our own CEER members, BEUC (the European Consumer Organisation), and NEON (the National Energy Ombudsman Network) for sharing their insights. We look forward to working with fellow regulators from other sectors to cross-fertilise ideas to develop best practice guidance on bundled products that helps protect European consumers.

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<sup>2</sup> Half of all European households buy bundled telecommunications bundles. Source “[Special Eurobarometer 438: E-Communications and the Digital Single Market](#) (2015).

## 1.4 Questions for public consultation

CEER invites all interested parties to submit comments on the draft Guide on Bundled Products over an 8-week consultation period (19 September 2018 to 14 November 2018). In particular, we seek views on the following questions:

**Question 1:** Do you agree in general with the 10 principles proposed in our Draft Guide on Bundled Products for companies, and the 5 principles proposed for regulatory authorities?

**Question 2:** Do you think our proposals make appropriate use of principles and adopt the right amount of prescription? Have we gone too far, or not far enough to protect consumers while allowing companies in various sectors to be innovative in the bundled products they offer?

**Question 3:** Do you think there are any areas of particular risk to customers that are not already addressed in this draft Guide on Bundled Products?

**Question 4:** Do you agree with the proposal that there be a single point of contact so as to avoid ping-pong in the case of a customer having a problem with the bundled product? If not, what workable alternatives do you suggest?

**Question 5:** Can you provide best practice cases of regulatory treatment of bundled products?

Interested parties (sectoral regulators or their associations, consumers or their representative bodies, companies etc.) are invited to participate in the public consultation via a [dedicated online questionnaire on the CEER website](#).

## 2 Principles for companies offering bundled products

Recognising that challenges arise when consumers contract a bundled product, CEER has developed 10 principles to help simplify and clarify rights and responsibilities for businesses and consumers. These principles are intended to help businesses improve the bundled products/services they provide, which in turn helps improve the customer experience and trust in the market. We encourage companies that offer bundled products to embed these principles into their business models.

- 1. Simplicity for informed customer choices - getting it right.** Consumers need easy to understand, easy to compare and consistent information. For ease of comparability, the (licensed) bundled product provider (or its representative) must ensure that the structure, terms and conditions of its tariffs are easily comparable. In terms of consistency, the definitions and terminology used in the bundled product contract, offer and bill should be the same. The bundled product provider must ensure that it puts in place information, services and/or tools to enable each household customer easily to compare and select appropriate tariffs within its offers, taking into account that household customer's characteristics and/or preferences.

The bundled product provider must make sure that the consumer has understood what he/she is signing up for before the contract is concluded. Before a consumer is bound by a contract, the consumer should be provided with information such as the main characteristics of each service provided, any minimum service quality and any compensation or refund arrangements that apply if the contracted service quality are not met. Most importantly, any update or change to the initial contract should be notified to the consumer at a minimum one-month in advance.

Example 1 – Informed customer choice principle - the do's and don'ts:

- For a practical example of good principles about informed choices, see the [Licence Condition 25 in the UK's Electricity Supplier's Licence. Standard Conditions \(01.05.2018\)](#)

- 2. Clear liability principles where there are multiple parties/contracts involved in the bundled product.** In some cases, the consumer may have to sign more than one contract when securing bundled products brokered by a company. In the case of multiple contracts for bundled products, it should be made clear (at all times) to the consumer who is liable for the full bundle in case of any problems.

In cases where a single contract is concluded but where the provider indicates that for part of the services, it acts only as an agent or broker, the provider is liable towards the consumer for any problem arising with any part of the bundle. The consumer should not have to interact with different parties for the different elements of the bundled product ("single point of contact per bundle") – instead there should be one company liable for the full bundle. However, such arrangements should not limit the consumer's existing rights and should not oblige them to use the single point of contact in all cases - the end user should have the choice to contact whichever party is considered most relevant under the



circumstance.

Example 2 – The main contractor is the one who is liable

- For a practical example on liability for proper performance services with multiples providers, see the [Package Travel Directive](#) (applicable in all Member States from 1 July 2018) and the European Commission’s [advice](#) which clarifies that the package organiser (seller) is liable if something goes wrong, irrespective of who performs the travel services. The package organiser may be the airline or the tour operator (see the 2 examples explained in the [Commission’s factsheet on stronger protection for package holidays](#).) The Air Package Directive also requires clear information on the features and characteristics of the package, its price and any additional charges.
- If a travel service cannot be provided as agreed, for example if a provider cannot carry out an agreed service or cannot do so in the agreed form (such as providing transport to/from the customer’s destination, providing the agreed type of accommodation, or carrying out a booked guided tour), the package organiser has to resolve the problem at no extra cost to the customer. If it is impossible to make alternative arrangements or the customer rejects the arrangements offered on valid grounds, and the package includes transport (such as air travel), the organiser must offer to repatriate the customer.

**3. Signposting of the responsible (in-house or external) complaint handler in case something goes wrong.** It is vital that consumers know who to contact (who is the case/complaint handler of the bundled product) when something goes wrong or when seeking advice or in the case of an emergency.

The customer’s journey in terms of whom to contact should be a key consideration for the involved parties of a bundled product (within or across sectors), so that they agree upon the lines of responsibility between contacts and refer the customer to the appropriate in-house/company complaint handlers as well as to the relevant external dispute resolution services including the designated regulator, ombudsman and consumer protection authority, in line with the principle above of a single point of contact per bundle, especially when multiple sectors are involved. The relevant parties would agree on the appropriate complaint handler and define an appropriate and transparent timeframe within which the appropriate complaint handler, to which the complaint is referred, should address the complaint. After this timeframe has elapsed, it must be made clear that the “seller” (see example 3 below), once again becomes responsible to help the consumer resolve any open issues.

Clearly, it is not for the companies concerned to decide whom among the regulators has jurisdiction. This should be worked out by the relevant public authorities concerned (see Section 3 below on Principles of Regulators). This Guide recognises that in some countries, ADR bodies are specialised for their respective commercial sectors (e.g. energy, public

transport, telecoms, etc.). The consumer should not be prevented from accessing simple and inexpensive out-of-court dispute resolution panels for each of the appropriate sectors if he/she feels they are more likely to obtain a favourable outcome than waiting for a single point of contact, which may provide a lower level of service.

Example 3 – “If I sell the bundle, I own the responsibility to handle cases for the full bundle”

- Companies (including the provider who acts only as a broker/intermediary for additional services) might need to think about minimising the number of potential contacts for one bundle (to reduce the risk of ping ponging) and could for instance ensure that the customer has only one interface. This Guide on Bundled Products recommends that the involved bundled product providers apply the principle that “if I sell the bundle to the customer, I own responsibility for the case handling of the full bundled product”. This would be supported by relevant back-office cooperation between the involved product providers, such that customer services of the “seller” should have experts capable of addressing appropriately queries about all elements of the bundle (e.g. be it insurance or energy or telecoms element). Such a policy should be applied also for the purposes of consumer’s product switching processes.
- For example in electronic communications, some Member States have codes of conduct for premium rated services (PRS), which allow for the consumer’s electronic communications provider to refer a complaint relating to the billing of PRS to the PRS provider. If the PRS provider does not handle the complaint within five working days, the electronic communications provider steps back in and, in some countries, automatically refund the consumer.

Example 4 – “First port of call rule”

- Alternatively, companies could apply a “first port of call rule”. In adopting this rule, it must be made clear that the first of the parties involved in the bundle that is contacted by a consumer (typically the “seller”) would deal with the case unless it is better dealt with by another of the involved product providers, in which case the customer should be referred onto the appropriate complaint handler whilst offering a call-back solution in case they are unsatisfied and experience case handling ping-pong.

- 4. Transparency is key.** Consumers buy bundles of multiple products for their intended efficiency in terms of cost and services. Price transparency on the different elements of the bundled products is vitally important. Companies should ensure that no arbitrary allocation of the price to individual elements of the bundle takes place. If low prices are assigned for an important element of the product, this can be disadvantageous for the end user in the event of a warranty claim. Price (and VAT) transparency of the different elements of the bundle should be reflected in the marketing material, the contract and the bill, identifying the other contracting parties and the terms and conditions of the different elements of the

bundled product.

Example 5 – Transparency about the breakdown of costs (VAT, price, etc) of the parts of the bundle

- Often consumers in Europe do not know how much VAT they are paying on each part of the various products bundled together. For small businesses, this lack of clarity on VAT creates an additional issue: because VAT on some products may be deductible (e.g. self-employed persons who install broadband to work from home), but not on others (e.g. your premium TV channels), small businesses are impeded from being able to properly deduct their VAT unless they choose to purchase the same products separately for a potentially much higher price.
- Bill transparency is important for the consumer to see if the different elements of the bundle work in the consumer interest. Such transparency is not expected to be overly burdensome on companies e.g. restaurant/hotel bills (at least outside of Europe) often show different taxes on alcohol or food.

Example 6 – Transparency about the total price, the contracting parties and the applicable consumer rights

- In July 2018, in a [joint action](#) involving the European Commission and the CPC Network of Consumer Protection Authorities called on Airbnb to align their terms and conditions with EU consumer rules to improve transparency in terms of providing the total (or final) price (inclusive of all the applicable mandatory charges and fees (e.g. VAT or local taxes) or, when it is not possible to calculate the final price in advance, the manner in which the price will be calculated and the fact that charges and fees may be applicable).
- Airbnb was also asked to be transparent about the parties behind the contract, i.e. whether the host is a professional trader (e.g. a hotel) or a private person. This distinction is not merely about customers looking for an experience in a private house with personal involvement but, critically, it has important implications on the consumers' rights and whether the transaction is protected by consumer protection rules.

Example 7 – Transparency about elements of the price and information on complaint handling

- The 2017 sweep of telecoms and other digital services (by the European Commission and the CPC Network of Consumer Protection Authorities) found that many of the 207 websites screened did not have [clear information on the handling of complaints](#), and in 50% of cases the provider advertises some services of the package as free or as a discount when in fact they are part of a bundled package. In some cases, elements of the price/additional costs were not clearly explained.

5. **On billing**, the provider who sends the bill should be subject to appropriate consumer protection legislation and directly linked to the bundled services contracted. No third-party entity can be included, recalling in particular the principles set out in guidelines 1 (simplicity) and 2 (clear liability principles) above. What is important, even if the reseller is the one sending the bill, is that the customer must be able to check the bill against the accepted offer as set out in the contract.
6. **On payments for bundled-only products**, it must be clear in advance of signing the contract whom the customer pays and what payment method(s) may be used (see guideline 4 above for principles on transparency on how much consumers are expected to pay).
7. **Respecting good guidance principles for price comparison tools** should equally apply in the case of bundled products. This Guide recognises that even with bundled products that contain multiple services within a sector (e.g. fixed/mobile telephony, internet, TV), price comparison can be difficult due to the different contractual elements, such as discount periods, volume allowances (voice minutes, SMS and data), etc. included in the bundled offers. Nevertheless, to the extent possible, price comparison tools should include fundamental features of commercial offers, including bundled services or products.

Example 8 – Recommendations on website comparison tools

- For good principles for comparison tool websites, see the 16 recommendations in [CEER's Guidelines of Good Practice on Comparison Tools in the New Energy Market Design](#) (December 2017). Themes covered include independence, transparency, exhaustiveness, clarity and comprehensibility, correctness and accuracy, user-friendliness, accessibility and customer empowerment.

Example 9 – European Commission sweep on travel website comparison

- For a case study on bad practices in price comparison tool websites, see the European Commission's findings of irregularities in online comparison tools in the [sweep on travel booking websites](#). Prices were not reliable on 235 websites (2/3 of the sites checked). On the identity of the provider of the comparison tool: 22.7% gave only limited information (e.g. name, address of establishment), while 4% did not provide any information at all.

Example 10 – Bundles and price comparison tools

- Some NRAs (e.g. the UK telecoms regulator (Ofcom) or the Irish energy regulator (CRU)) accredit price comparison tools, giving website comparator companies the chance to build trust by showing that their results meet the standards required by the NRA. To be accredited, the websites are subject to technical and qualitative audits which assess a range of factors, including accessibility, comprehensiveness, transparency and accuracy. Ofcom's audit process recognises that when bundles are

considered, the task of price comparison becomes more complex and hence the technical audit requires the price comparison website provider to provide a detailed description of their methodology.

- 8. The right to information about the contract conditions.** The consumer should be well informed about the contract conditions for the bundled services (e.g. the consequences of the company not fulfilling - or the consumer not paying fees relating to - elements of a bundled contract). Companies should ensure that consumers are able to understand their rights and know about **their options to terminate/switch to another contract – companies should seek to give the consumer the possibility to switch out of or terminate the whole bundled contract.**
- a. The parties involved in the bundle should seek to **align the duration** of the elements of the bundled contracts with the duration of the essential contract.
  - b. The parties involved in the bundle should seek to align the **conditions for termination** of the different elements of the bundle.
  - c. The **contractual renewal of the provision of optional or additional services** must be subject to prior notification and separate from the essential element and sent in a timely manner to the consumer. If a contract is extended without the consumer's consent, the consumer should be able to terminate the contract with the provider at any time at no cost.
  - d. The consumer may be charged a **fee for the early termination of a fixed-term contract**. The consumer should be informed at the time of the offer (and before signing the contract) about any termination fees to be able to make a well-informed choice.
  - e. **Whenever a change of supplier:**
    - i. leads to the cessation of an "optional" or additional service, this should not imply any penalty or subsequent payment for services that have not been effectively rendered.
    - ii. does not lead to the cessation of an "optional" or additional service (by the consumer's choice), that service cannot imply a worsening of the price, conditions or payment terms for that service that remains intact.

Example 11 – Switching telecoms bundles - easy or not?

- The processes for switching bundled services (e.g. fixed/mobile telephony, internet, TV) varies across Member States and across sectors. In some instances, it can be relatively straightforward, for example when the consumer is switching provider within the same access telecoms network/platform to other providers who have wholesale access. In such cases, consumers switching fixed-line telecommunications and broadband services (on a standalone or bundled basis) may only need to contact the provider to whom they want to switch, who will in turn contact the old provider and arrange the transfer of the service(s). The consumer does not need to contact the old provider to cancel. However, when customers wish to switch their bundles to another platform, e.g. from the incumbent's network to a cable network, they may have to follow separate switching routes for the individual components and/or have to cancel their existing services with their old provider and enter into a new contract with their new provider separately. In these circumstances, the customer is responsible for coordinating the

stop and start dates of their old and new contracts to try to avoid loss of service and reduce double payments from any contract overlap.

- 9. No disconnection of essential services** (e.g. energy) in the event of non-payment of another element (e.g. maintenance contract or insurance) of the bill of a bundled product. The consumer must be clearly informed that subscription to ancillary or additional services is independent and does not interfere with the provision of the essential service (see good guidance developed by the Portuguese energy regulator in Example B, Section 3 below). If the consumer breaks the conditions of the bundled contract (e.g. does not pay the part of the bill that corresponds to an additional service), their essential service must be maintained although the consumer loses the benefits and conditions of the bundled contract.
- 10. No dispute resolution fee.** In the case of a dispute on a bundled product, there should be no (or nominal) fees for the customer to engage in out-of-court ADR.

### 3 Principles for regulators overseeing and regulating sectors with bundled products

Bundled products which cut across several sectors raise jurisdictional challenges between the authorities responsible for enforcing consumer rights. Cross-authority cooperation and coordination is key, as is close monitoring of the deployment of these products, to ensure consumers' rights are correctly enforced. We recommend that, where bundled products exist, the following principles be applied by public authorities charged with overseeing market developments and with managing complaint resolution processes for bundled products and services.

- A. Establish rules in general consumer law governing bundled products across all sectors.** Bundled products are not a new trend and are likely here to stay. To ensure uniformity of treatment of bundles, rules on bundled products should be clearly established in general consumer law. Sectoral regulatory codes and rules should include provisions for bundled offers, to ensure respect of consumer rights and protection laws, non-abusive market behaviour, price and product transparency (distinct from traditional or unbundled offers), clarity on billing and payment conditions, among others.

#### Example A – Regulatory guidelines on information provision in the energy market developed by ACM (the Dutch energy regulator)

##### The problem

ACM (the Dutch multi-sectoral regulator) found, through random checks, that the level of compliance with the [requirements on the provision of information to consumers](#) was insufficient in the energy sector. ACM discovered that companies understood energy law but not general consumer law.

##### The solutions and other steps taken by the regulatory authority to protect consumers

In an effort to increased compliance in the energy sector with the general consumer rules, ACM developed guidelines that translate the general consumer protection rules to the practices in the energy sector. The guidelines explain the rules clearly and simply.

Several lessons were learnt by the regulator:

- In terms of developing guidelines, a key lesson is that general consumer legislation should act as a firm basis as it applies across all sectors. Sector-specific rules can complement but must be consistent with consumer rules.
- As part of the process, ACM consulted the energy sector on its guidance document.
- As the guidance was to be followed by enforcement actions, ACM provided a grace period for companies to comply with the rules.
- ACM learnt that guidance is very important and furthermore guidelines or rules provide a firm basis for enforcement (which became much more effective as a result of this process).



- B. Protect essential services.** Where bundling of products includes an essential service (such as energy), consumers must be clearly protected from disconnections or risks associated with other elements of a bundled contract. Consumers should be explicitly informed of the conditions they are entering into and there should be a clear separation between essential services and other products, in particular when discounts in one product depend on another of the bundled elements.

Example B – Regulatory Guidelines on Bundled Products developed by ERSE (the Portuguese energy regulator) following electricity being cut due to non-payment of equipment maintenance services

The problem

A Portuguese consumer contracted a service with his energy retailer for maintenance services of appliances. After a 6-month trial period, the consumer terminated the maintenance agreement.

The Supplier found an error in the bill of the maintenance service provided during the 6 months and issued a new bill which the consumer did not pay. His electricity was subsequently disconnected. This was counter to Portuguese law which [allows an interruption only in the case of non-payment of energy bills](#), whenever these bills are related to energy supply. The supplier cannot interrupt energy supply due to non-payment of the equipment maintenance service.

In other words, even if the “additional service” for equipment maintenance is invoiced in the same bill as the energy supply, the supplier cannot interrupt the energy supply due to non-payment of the equipment maintenance service. Although this is clear according to the law, the company still decided to cut the energy supply. The energy supplier should have continued to supply energy but with the standard terms and conditions for the energy service now applying rather than the benefits of the conditions of the bundled contract.

The solutions and other steps taken by the regulatory authority to protect consumers

- The supply company was **fined** €20,000 by ERSE for cutting energy supply due to non-payment of a maintenance service contract.
- ERSE developed (January 2017) a **Regulatory Recommendation for all energy suppliers concerning Bundled or Additional Service Contracts**. It requires *inter alia* the supplier to provide clear information on the separation between essential services and additional services and to guarantee that switching energy supplier does not incur additional costs either to maintain or cancel such additional services.
- Since 2016, ERSE requests a copy of **all contractual conditions** concerning bundled or additional service contracts.
- A standard form for pre-contractual information **obliges suppliers to identify bundled or additional service contracts**.
- The Commercial Relations Code was revised (October 2017) to include **a requirement (Article 105) for regular reporting to the energy regulator** on bundled or additional service contracts.

- C. Strengthen the right to exit bundle products.** The consumer's right to switch out of or terminate a bundle is important to avoid lock-in situations.

Example C – Codes of conduct developed by Ofcom (UK telecoms regulator) to deliver on contracted quality of service and extend the consumer's right to exit a contract to bundled contracts

The problem

Whether a consumer can terminate a bundled contract is particularly relevant for bundles that include electronic communication services (ECS), such as internet access. If the delivery of the contracted service is unsatisfactory and does not meet the contracted quality levels, consumers risk being locked-in to an inadequate product.

The solutions and other steps taken by the regulatory authority to protect consumers

Regulation (EU) 2015/2120, laying down measures concerning open internet access, provides that significant difference (continuous or regularly recurring) between the actual performance of the internet access service (regarding speed or other quality parameters) and the performance indicated in the consumer contract can trigger remedies including the termination of the contract by the consumer.

In the UK, the NRA (Ofcom) updated the voluntary **Codes of Practice on Broadband Speeds** to help ensure customers are provided with information that would help them to shop around with confidence. The key revisions to this Code include **strengthening customers' right to exit** and **extending the right to exit to also cover bundled products**, such as landline services on the same line, or pay-TV services purchased at the same time as the broadband service.

Providers of internet access services have a **30-calendar day limit to improve internet speeds** before they must **offer the right to exit** to customers.

Further, providers are required to make information on the right to exit more prominent in post-sale information and to link it more clearly to the minimum guaranteed speed so that customers understand what triggers this process.

- D. Monitor.** Bundling of products can raise several important competition issues (replicability, market consolidation, lack of price transparency, and lock-in as it is difficult for customers to switch away from the bundle). Regulatory authorities could establish reporting obligations and monitoring mechanisms for bundled products to understand their complexity (and whether consumers can understand and manage bundles), their penetration of the market, performance (including price trends), respect of consumer rights provisions and levels of consumer complaints. This data and analysis could be shared across relevant authorities.

Example D – metrics for monitoring bundled products in electronic communications

The EU telecoms agency, BEREC, developed a set of indicators on bundles to better reflect the prevalence of increasingly complex bundles of quadruple-play and quintuple-play combinations (see [BEREC's "Indicators on Bundles" paper \(BoR \(15\) 77\)](#)). Several NRAs measure and report on the take up of communication bundles (e.g. Ofcom's annual Communications Market Report).

**E. Cooperate across sectors with relevant authorities.** Whenever there is a potential overlap of jurisdictions among sectoral regulators for various elements of a bundled product, the public authorities should establish mechanisms for cooperation and enforcement, such as a memorandum of understanding between regulators and other competent authorities to handle consumer complaints. The recent revision of [\*Regulation \(EU\) 2017/2394 on cooperation between national authorities responsible for the enforcement of consumer protection laws\*](#) should help to reinforce such cooperation.

In order to ensure the exchange of best practice not only across sectors but also across Member States, intra-EU sharing of results should be facilitated. Sharing complaint statistics and monitoring data to identify hot spots and the need for EU legislative intervention where needed should be enabled.

Example E – national cooperation models among ombudsmen

A short (4 page) Memorandum of Understanding between different (sectoral) ombudsmen in the UK makes clear in an inter-ombudsman protocol the broad jurisdiction (business covered, complaints covered, fines, time limits, etc.) of the respective ombudsmen (e.g. Financial, Legal, etc.), the requirements on business to signpost complainants to the right Ombudsman, the acceptance/referral of cases by Ombudsmen, etc. See <http://www.financial-ombudsman.org.uk/about/inter-ombudsman-protocol.pdf>.

CEER encourages further sharing of good practices on the PEER section of the CEER website (<https://www.ceer.eu/peer>) where short cases (in English) of regulatory solutions and lessons learnt on bundled products can be found. For example, the [\*summary event proceedings of the Oct. 2017 PEER workshop on Bundled Products\*](#) provides interesting insights on a range of bundled product issues (e.g. competition issues, legal and contractual, redress, comparability issues). Submissions via CEER of practical cases are very welcome.

## Annex 1 – The Partnership for the Enforcement of European Rights

### What is PEER?

The **Partnership for the Enforcement of European Rights (PEER)** is an initiative to improve the enforcement of consumers' rights through enhanced cross-sectoral regulatory cooperation at European level. PEER brings together interested authorities responsible for protecting and/or supporting Europe's consumers across a range of sectors including consumer protection authorities; data protection authorities; consumer bodies; ombudsmen; competition authorities; and sectoral regulatory authorities (e.g. energy, telecommunications, financial). The Council of European Energy Regulators (CEER) launched PEER on a pilot basis in 2017 (see the [PEER brochure](#)).

### PEER work on bundled products

Our PEER regulatory roundtable on bundled products (2 October 2017) brought together authorities and legal experts from several countries and sectors, revealing that consumer rights are less well protected with bundled products, and that bundles often give rise to an accumulation of problems. Regulators from different sectors shared case studies of bundled product challenges and regulatory solutions. Documenting such experiences (as we have done in our "[PEER Bundled Product Event Proceedings](#) (02/10/2017)") is helpful for other authorities as new challenges arise in the future.

As a follow up, the Council of European Energy Regulators (CEER) has led the preparation of this "**Guide on Bundled Products**". This guide benefits from the practical experience of many authorities dealing with bundled product complaints.

### Value in sharing best practices

We see value in sharing good practices and lessons, particularly on cross-cutting issues, to better protect customers in increasingly interlinked markets. PEER events and the [online PEER platform](#) (hosted on the CEER website [www.ceer.eu](http://www.ceer.eu)) facilitates knowledge sharing and collaboration.

For more information about CEER and our work, please visit our website at [www.ceer.eu](http://www.ceer.eu).

## **Annex 2 – About CEER**

The Council of European Energy Regulators (CEER) is the voice of Europe's national regulators of electricity and gas at EU and international level. CEER's members and observers from 36 European countries are the statutory bodies responsible for energy regulation at national level.

CEER's key objective is to facilitate the creation of a single, competitive, efficient and sustainable European internal energy market that works in the consumer interest. CEER actively promotes an investment-friendly and harmonised regulatory environment, and consistent application of existing EU legislation. Moreover, CEER champions consumer issues in our belief that a competitive and secure European energy market is not a goal in itself, but that it should deliver benefits for energy consumers.

CEER, based in Brussels, deals with a broad range of energy issues including retail markets and consumers; distribution networks; smart grids; flexibility; sustainability; and international cooperation. European energy regulators are committed to a holistic approach to energy regulation in Europe. Through CEER, NRAs cooperate and develop common position papers, advice and forward-thinking recommendations to improve the electricity and gas markets for the benefit of household consumers and businesses.

More information is available at [www.ceer.eu](http://www.ceer.eu)