

Training Day – Module 3A Consumer protection

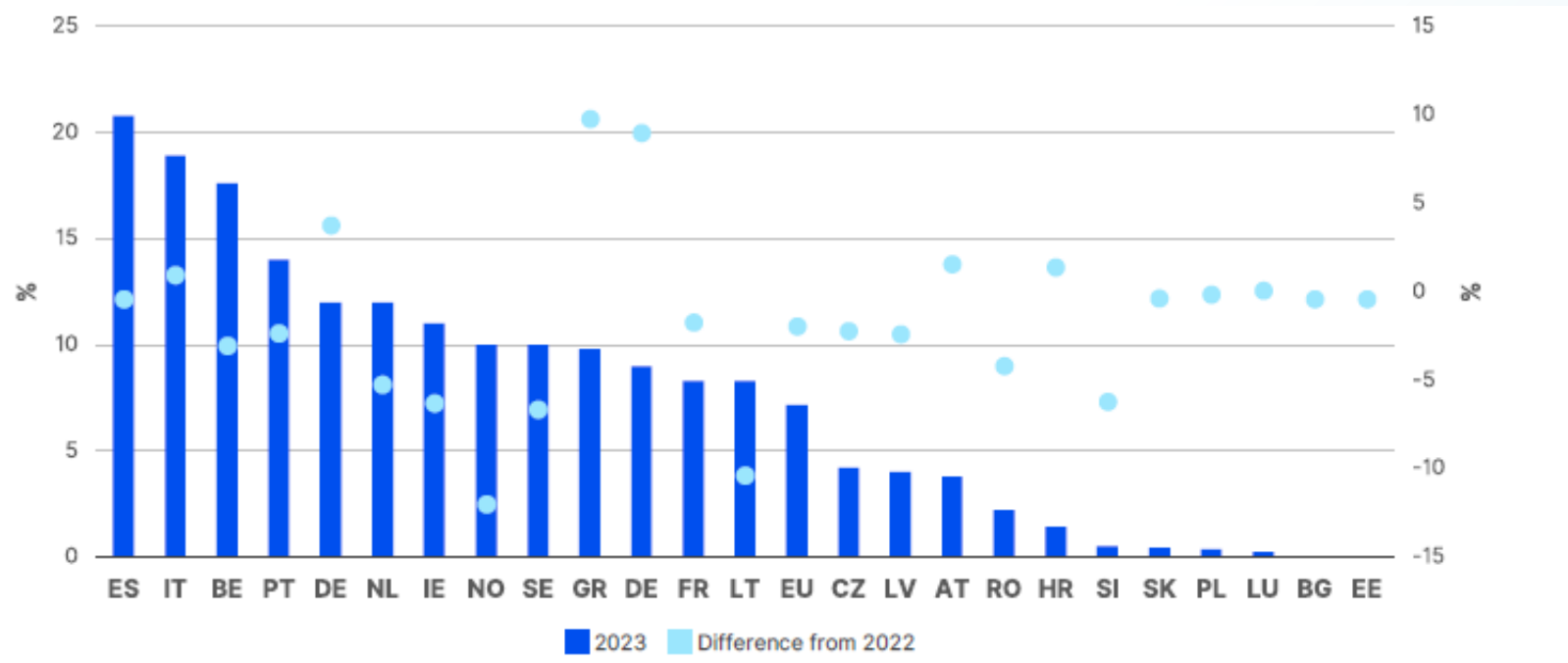
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- Well-functioning retail markets can deliver:
 - ***Prices*** that better ***reflect underlying costs***
 - ***Innovation*** in products and service
 - Greater consumer ***choice***
 - Opportunities for ***self-generation, energy communities, energy sharing***

Consumers' supplier switching

- In EU liberalised retail electricity markets, consumers seem reluctant to switch

Percentage of external switching rate of household electricity consumers in 2023 (by number of eligible meter points)



Source: ACER Retail Database and CEER National Indicators Database (2016) and ACER calculations

Switching rates and consumers' benefits

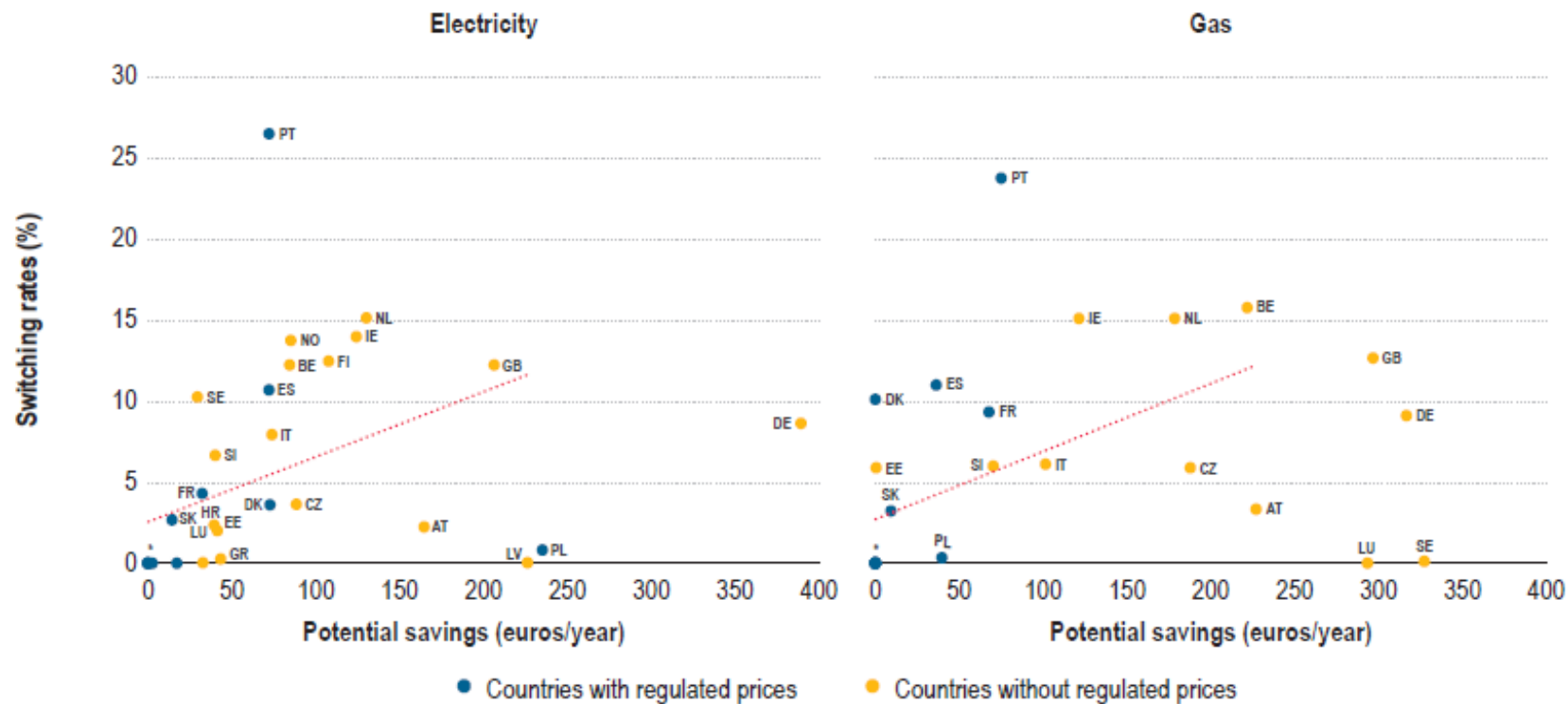
- Switching rates, by themselves, are not reliable indicators of retail competition
 - Low switching rates could be consistent with either:
 - Barriers to entry into the retail market and only one or few suppliers
 - High suppliers' margins
 - Lack of choice for consumers
- or
- Many fiercely-competing suppliers
 - Low suppliers' margins
 - Many, but similar, offers available to consumers ...
... but non-price competition may develop



Supplier switching and savings

- Households can save by switching suppliers... but they do not necessarily switch

Relationship between countries' overall switching rates and annual savings available in capital cities – 2015 (%)

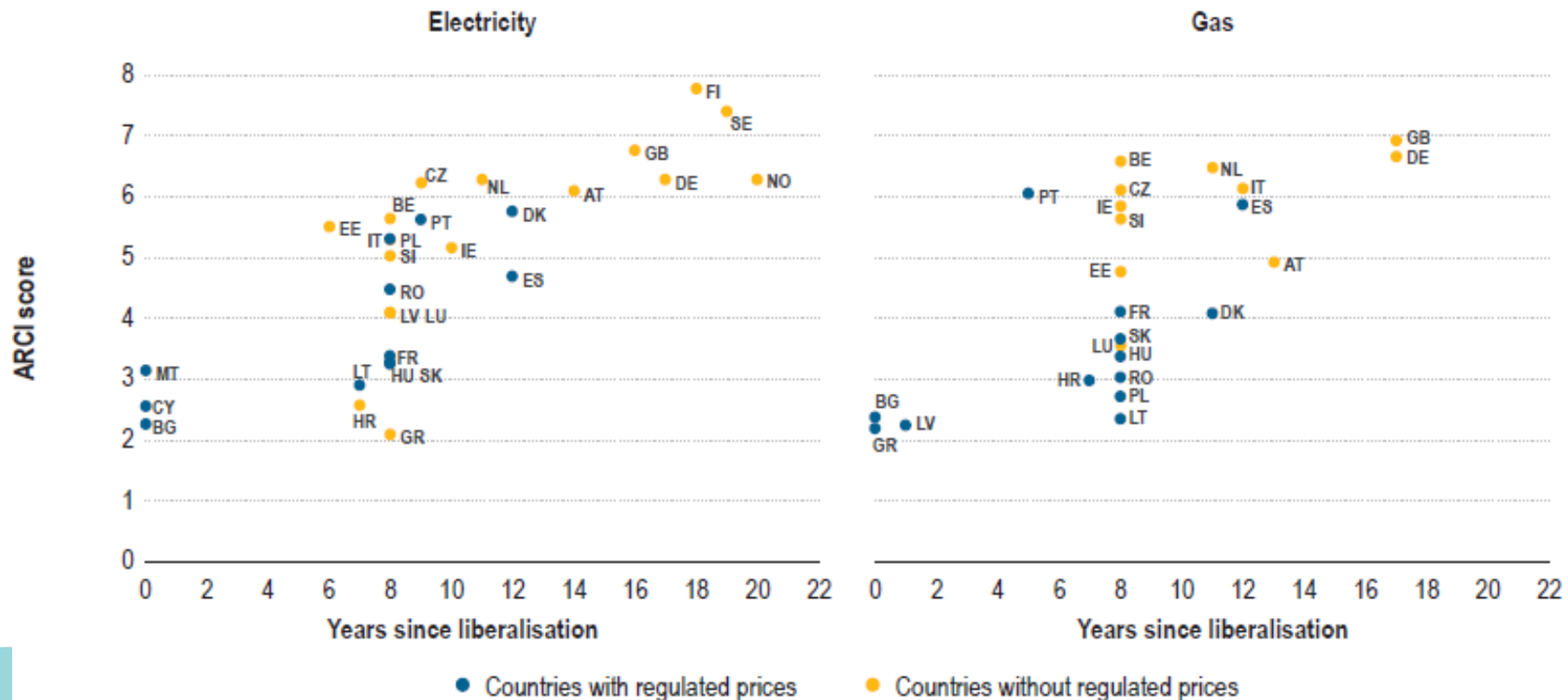


Source: ACER Retail Database and CEER National Indicators Database (2016) and ACER calculations

It takes time to learn

- Consumers in the EU have been *slow to take advantage* of the benefits of retail competition

Relationship between switching rates and time since market liberalisation 2014 (%)



Consumers often switch to worse offers (1)

Spain (FACUA 2021)

- Households moving from the regulated tariff (still available to them) to the free market often ended up with higher bills
- The offers of the ten retailers included in their analysis resulted in bills that, for the average consumer, were up to 22.8% higher than in the regulated market
- Misleading advertisements were claimed partly responsible for this result

The Netherlands (ACM 2022-24)

- ACM fined suppliers and revoked one licence for misleading consumers when recruiting new customers by telephone or for the behaviour of their agents, including for:
 - failing clearly to state, at the beginning of the call, its commercial purpose
 - persistently pressurising consumers to switch supplier during such calls

Consumers often switch to worse offers (2)

Italy (ARERA 2021)

- More than 60% of new contracts signed in the free market by electricity consumers between July and September 2021 were more onerous than the regulated supply contracts, still available during that period
- The percentage was even higher ($\approx 90\%$) in the same period of the previous year
- The more onerous contracts did not offer any special feature justifying the higher prices, except for, in some cases, a 'green' guarantee which, however, according to ARERA, seemed unlikely to be worth the higher cost
- Consumer made limited use of the Comparison Tool provided by the regulator
- In the majority of cases, consumers seemed to choose as a result of being contacted by a call centre or a sales agent, who proposed only few offers

Consumers often switch to worse offers (3)

Spain (CNMC 2026)

- CNMC identified one supplier with an unusually high number of complaints relating to its size and commercial activity (between 2022-2025)
- CNMC issued a legally binding decision for this supplier in February 2026. This decision sets out several requirements to the supplier, notably:
 - Record all commercial contacts, ensuring that information requirements are met.
 - Measures to verify the origin of the consumer's consent to the commercial contact. After a contract is agreed, the supplier must conduct and record a verification call.
 - Monitor its sales force's activities through a series of indicators, and report to the CNMC. If the sales force exceeds certain thresholds, corrective measures must be implemented

Innovative Energy-related Services: Consumer Rights and Protections (I)

- Innovative Energy-related Services included in the analysis

Emerging Services

- Energy as a service (EaaS)
- E-Vehicles charging as a service (EV CaaS)
- Automated switching services
- Energy sharing
- Energy communities performing energy sharing
- Demand response services

Services of the Future

- AI-powered HEMS and Automated decision-making tools

Broadly-available services

- District heating and cooling

Innovative Energy-related Services: Consumer Rights and Protections (II)

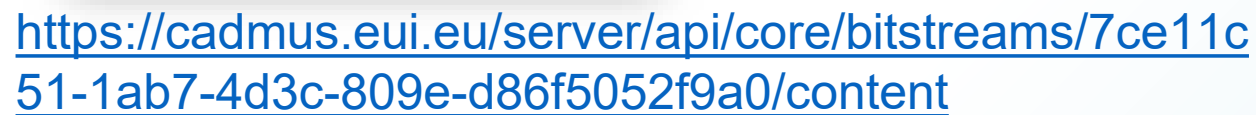
Mapping the Energy Consumer Journey

ECJ – Stages	Topics	Description
Before	Marketing practices	Marketing practices encompass the advertisements and sales tactics employed by service providers to persuade consumers to contract a service.
	Pre-contractual information	Pre-contractual information refers to the terms and conditions provided to consumers before they enter into an agreement, which may include a contractual template or a summary of the key provisions.
	Contract Terms	Contract terms are the terms and conditions included in an agreement between a consumer and a service provider, often in a standard form contract.
	Consent to access data.	Consent to access data refers to the consent a consumer provides to market participants, allowing them to access the consumer's metering data.
During	Price	Price refers to any amount of money expected, required or given in payment for goods or services, including also fees for loans, renting and leasing of technological devices or sharing keys.
	Installation	Installation refers to the service of installing a technological device on the consumer's premises, which is required for the delivery of the innovative service.
	Maintenance	Maintenance refers to the service of keeping a technological device in good condition by repairing it when necessary.
	Metering	Metering refers to the access to meters and the process of measure energy consumption.
	Billing	Billing refers to the process of requesting payment for goods and services by generating invoices, which include information about the price and its breakdown, as well as additional network tariffs, taxes and levies.
	Payment methods	Payment methods refer to the means by which bills and their invoices can be paid.
	Liability	Liability refers to the state of being legally responsible for non-performance or imbalances in the grid.
After	Termination	Terms and conditions applied to contract termination, including switching rights and termination fees.
	Re-use of assets	Re-use of assets refers to the interoperability of technological devices used to provide a service, which allows such assets to be re-used for the provision of the same or a different service by a different provider.
	Rights to redress	Rights to redress refer to the right consumers have to bring disputes to out-of-court dispute resolution, also known as ADR bodies.

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 CEER Council of European Energy Regulators

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12

Innovative Energy-related Services: Consumer Rights and Protections (IV)

Identified issues in innovative energy-related services

ECJ Stage and Topic	Issue	ECJ Stage and Topic x	Issue	ECJ Stage and Topic	Issue
BEFORE (pre-) contractual information	Complex pricing in offers and contracts	Selling practices	Telemarketing	DURING Maintenance	Maintenance of technological devices
	Energy supply price: calculation methods behind fixed, variable and dynamic prices		Knowledge assessment and information campaign	Billing	Billing information for complex prices and fees
	Performance-based energy efficiency fee		Bundled Offers		
	Intermediaries and their service fees	Marketing practices	Deceiving labels on communities, sharing schemes and efficient DHC	AFTER Re-use of assets	Lock-in of consumers through technological devices
	Right to use technological devices: loans, rent or leasing	Contractual terms	Energy sharing organisers as a contractual party in sharing agreements	Rights to redress	Cooperation between energy and consumer authorities for enforcement purposes
	Sharing keys: static, variable and dynamic calculation		Multiple energy suppliers or sharing agreements at one connection point		
		Consent to access data	The use of data by AI and Automated Decision-Making Tools		

- Possible causes for consumers switching to a worse offer
 - ***the lack of transparency*** – in the form of misleading information or omissions - or the complexity in the way in which offers are presented
 - ***the lack of consumers' knowledge*** about how the energy retail market functions
 - ***some aggressive and/or misleading marketing practices*** adopted by energy companies, especially through call centres and sales agents



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