

‘Energy citizens’ and the new market design: why we need a dedicated legal framework

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Solar Power Europe: PV Financing

“Investing in Europe’s Sunshine”

26/10/2016



ClientEarth's EU work on prosumers

April 2015

Promoting citizen participation in the energy transition: recommendations for an EU legal framework to support community energy



May 2016

Prosumer Rights: Options for an EU legal framework post-2020

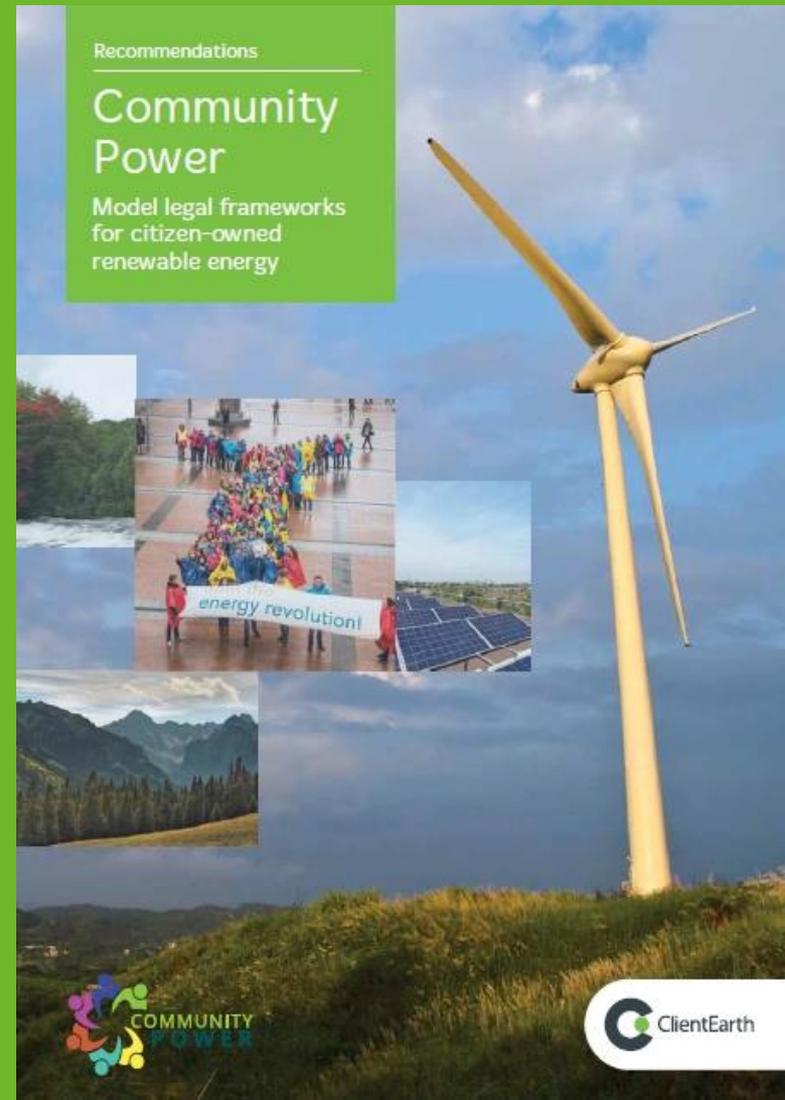
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Why do we need a dedicated legal framework for energy citizens?

Existing legal framework for prosumers

- Law and policy mainly Member-State driven
- EU 2020 climate & energy targets & legislative framework
- The internal energy market legislative framework
- Consumer rights framework
- 2014-2020 State aid guidelines / competition law



Main legal challenges for prosumers

1. Prosumers are a **discrete type of market actor**
2. Lack of **legal 'safe space'** for prosumers in the energy market
3. Insufficient guidance/information on complex laws and regulations
4. Policy instability - **retroactive/retrospective changes** to support schemes, harming investment certainty/trust of prosumers
5. Lack of **equal opportunity** for households, small businesses, and municipalities across the EU

Options for a dedicated legal framework

The Energy Union – how to place citizens at the centre?

1. **Legal definition(s)** of ‘the energy prosumer’
2. **Enhanced consumer/prosumer rights**
3. **Legal/Institutional support**

'Inclusive' Legal definition(s) of the prosumer, or 'active customer'

Key features that a definition should include:

- CONSUMER 1st – market actor 2nd
- Should differentiate prosumers from other market actors
- Should cover **all activities** possible
- Should cover different **types of consumers**
- should cover both 1) individual consumers and 2) as collective community initiatives

A set of prosumer rights

1. **General right** of the consumer to ‘actively participate’ in the energy market + **specific rights** of market access for individual activities
2. Right of consumer to ***maintain traditional protections***
3. The right to access markets **individually** and/or **through an agent** acting on consumer’s behalf (including collectively)
4. Right to transparent, participative process of setting distribution tariffs, that are non-punitive and ‘fair’ to prosumers
5. Equitable/stable access to available support schemes
6. Informational rights (e.g. one-stop shop)

Institutional support: safeguarding prosumer rights

- Oversight/enforcement of prosumer rights by National Regulatory Authorities
- Including prosumer rights in mandates of ombudsman/consumer bodies
- Allowing prosumers to legally challenge decisions, access to judicial review
- Cooperation between NRAs and ACER/CEER – active monitoring/learning at EU level
- Development of codes/guidelines by *EU-DSO body*???

Energy citizenship as a social dimension

Addressing energy poverty

- Putting in place financial and regulatory tools to promote participation by low- and medium-income households
- Support for community energy projects that address fuel poverty
- Planning requirements similar to those in EED?

Participation from multi-unit dwellings

- Addressing split incentives issues between landlords and tenants
- Simplification/exemptions from traditional supply licenses?

Thank you!

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