

ENERGY REGULATION AND RETAIL MARKETS

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Topics

1. **Retail markets in the European Union**
2. Retail Markets and Third Energy Package (Directives 2009/72/EC and 2009/73/EC)
3. Retail markets in Portugal
4. Challenges for the future

CURRENT SITUATION

ALL CUSTOMERS CAN CHOOSE THEIR SUPPLIER, BUT

- Competition at the retail level is often limited
- Incumbents remain dominant
- Switching levels are relatively low
- Choice is limited

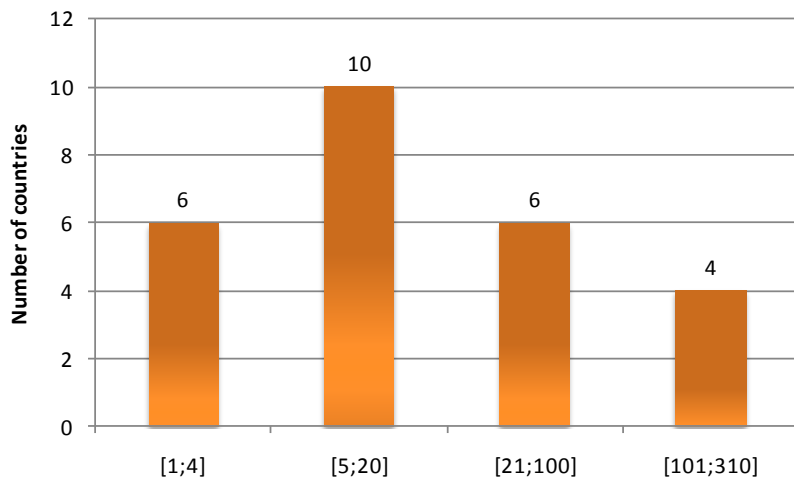
POSSIBLE REASONS FOR THAT

- High levels of concentration on retail market
- Integration of generation and supply
- Regulated tariffs

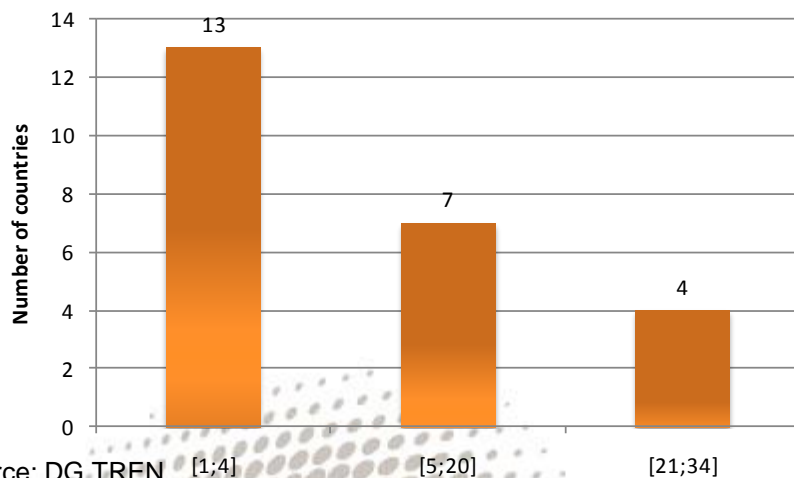
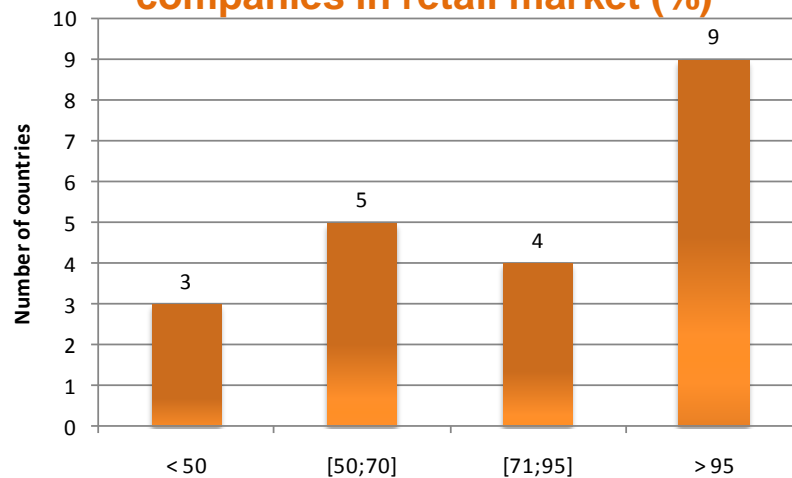
STRUCTURE OF ELECTRICITY AND GAS RETAIL MARKETS

Electricity

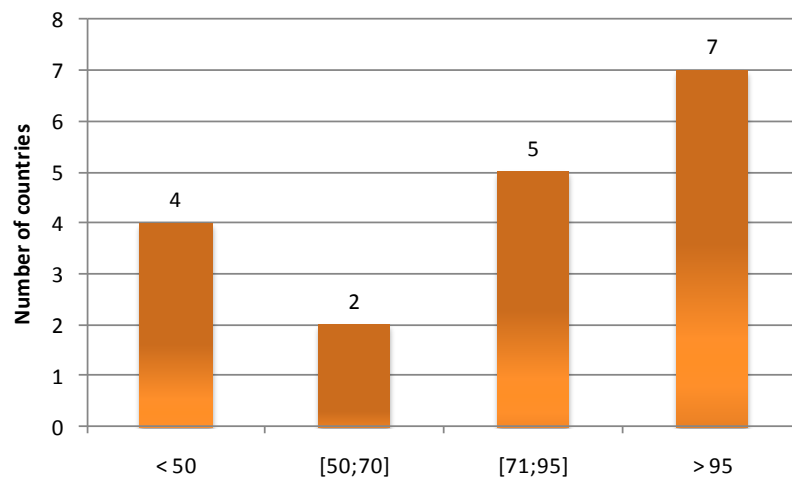
Number of nationwide suppliers



Market share of three largest companies in retail market (%)



Gas

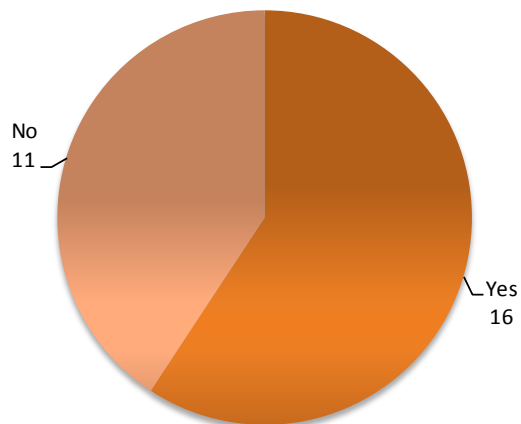


Source: DG TREN [1;4] [5;20] [21;34]

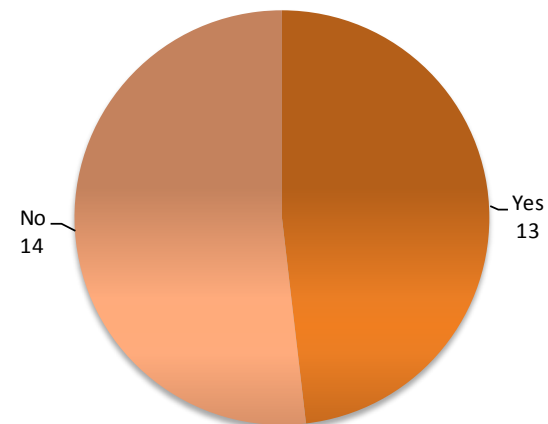
END-USER PRICE REGULATION

Electricity

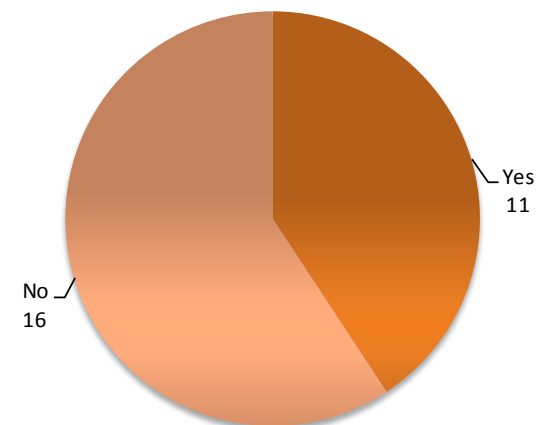
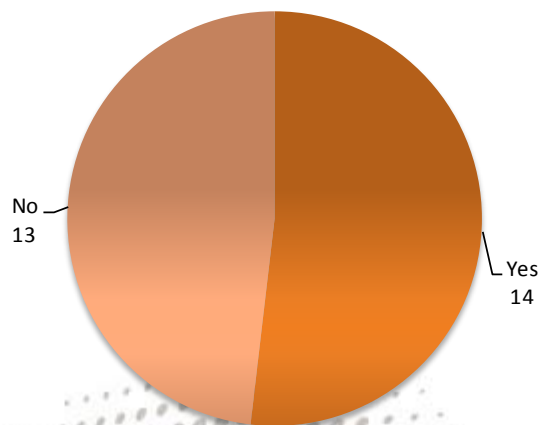
Households



Non-Households



Gas



NEED FOR ACTION

- In 2007, the Commission communication of January 10th showed that the present rules and measures do not provide the necessary framework for achieving the objective of a well-functioning internal market.
- More effective measures and rules were identified as necessary.
- New Directives (Third Energy Package) approved in 2009 are an important contribution to make the internal energy market work for all consumers. A number of measures were adopted to complement the existing rules:
 - New protection measures for consumers.
 - More effective national regulators.
 - Separation of production and supply from transmission networks.
 - Facilitate cross-border energy trade (Agency with binding decision powers).
 - Greater transparency.

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Consumer protection measures

“(...) The rules should be defined to facilitate consumers’ understanding of the retail market and the entry of new suppliers (...)”¹

- The European Energy Consumer Checklist must be effectively communicated to all consumers.
- Customers are entitled to receive all consumption data in an easily understandable harmonized format.
- Consumers must be properly informed of their consumption and costs frequently enough to enable them to regulate their consumption.
- Obligation to define the concept of vulnerable customers and their protection (may refer to energy poverty; prohibition of disconnection at critical times and interaction with other social policy measures).
- Ensure that there are single points of contact to provide consumers with all necessary information:
 - Independent mechanism to deal with their complaints and facilitate out-of-court dispute settlements.
 - Good standard of service and complaint handling by their energy providers.

¹ Interpretative Note on Directives 2009, Retail Markets

Regulator's role

- Designation of a single regulatory authority at national level (legally distinct and functionally independent body, with budgetary autonomy and adequate human and financial resources)
- National regulatory authorities should be able to:

Duties

- Fix or approve transmission or distribution tariffs or their methodologies.
- Ensure that there are no cross-subsidies between transmission, distribution, storage and supply activities.
- Ensure compliance of transmission and distribution system operators with their obligations.
- Help to ensure that the consumer protection measures are effective and enforced.
- Cooperate at the European level.

Powers

- Issue binding decisions on energy undertakings.
- Carry out investigations into the functioning of the markets and impose any necessary and proportionate measures to promote effective competition.
- Require information from energy undertakings relevant for the fulfillment of its tasks.
- Impose effective, proportionate and dissuasive penalties on undertakings that are not complying.
- Have the appropriate rights of investigations and relevant powers of instructions for dispute settlement.

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ERSE competences

- ERSE is responsible for the regulation of electricity and natural gas sectors.
- ERSE performs its functions independently, in the framework of the law and the guiding principles of the energy policy established by the government.
- ERSE decisions can only be contest in Court.
- The main statutory objectives of ERSE are:
 - To protect the rights and interests of consumers with regard to prices and quality of service, providing information and clarifications to them.
 - To ensure that natural gas and electricity undertakings comply with the public service obligations.
 - To implement the liberalisation of the electricity and natural gas sectors and improve competition.
 - To contribute to the progressive improvement of the technical, economic and environmental conditions in the regulated sectors.
 - To coordinate with the Competition Authority the enforcement of the competition law in the energy sector.

ERSE competences

ERSE competences are organized in the following areas:

➤ Regulation

- Publication and compliance supervision of the following codes: Tariffs, Commercial Relations, Quality of Service, Grids and Infrastructures Access, Grids Operation (electricity) and Infrastructure Operation (natural gas). Approval of tariffs and prices.

All relevant information and documents are made public by ERSE. Main decisions are preceded by public consultations and hearings and justified in a document which includes answers to all comments and suggestions received.

➤ Inspection

- Regular inspections of the complaint's record, inquiries and audits to the regulated companies, among other measures.

➤ Sanctions

- Cannot yet be exercised in a general manner; awaits the publication of the legal framework which will regulate this power.

ERSE competences

- Advisory
 - Opinion on several matters, such as investment plans or security standards of electricity transmission system and when asked by the government or parliament.

- Settlement of disputes
 - Promote voluntary arbitration for the settlement of commercial disputes and can use other alternative resolution mechanisms: recommending a solution or suggesting that parties look for a solution.
 - Ensure the reply to consumer information requests, by phone and in writing (email, letter, etc.) and the treatment of their complaints.

Consumer protection measures

- Access to electricity and natural gas supply
 - Obligation to provide connection to the electricity network, even in isolated areas.
 - Obligation to provide connection to the natural gas network, but limited to a certain area.
 - Obligation to supply electricity and natural gas by the last resort suppliers.
 - Prior notice to customers before interruption of supply.

- Quality of supply
 - Continuity of supply standards.
 - Customer services (commercial quality) standards.
 - Penalty payments in case of non-fulfillment of guaranteed standards.
 - Customer complaints procedures.
 - Consumer information (leaflets, codes of practice, websites).
 - Dispute settlement.
 - Special duties for disabled customers.

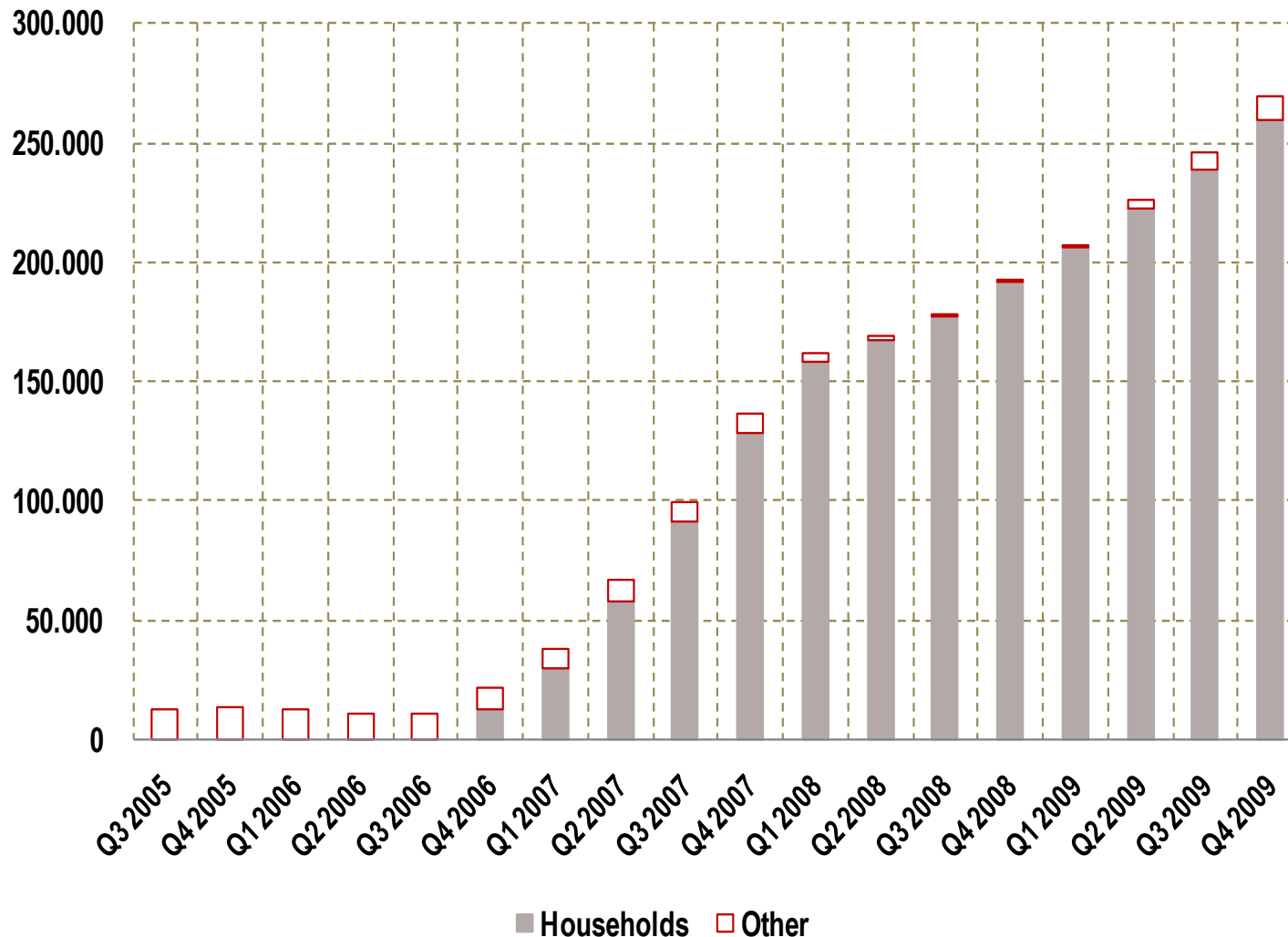
- Price of energy supply
 - Regulated tariffs.
 - Tariff uniformity – applied to all end customers of the last resort suppliers.
 - Social tariff for low income consumers of electricity.

Consumer protection measures

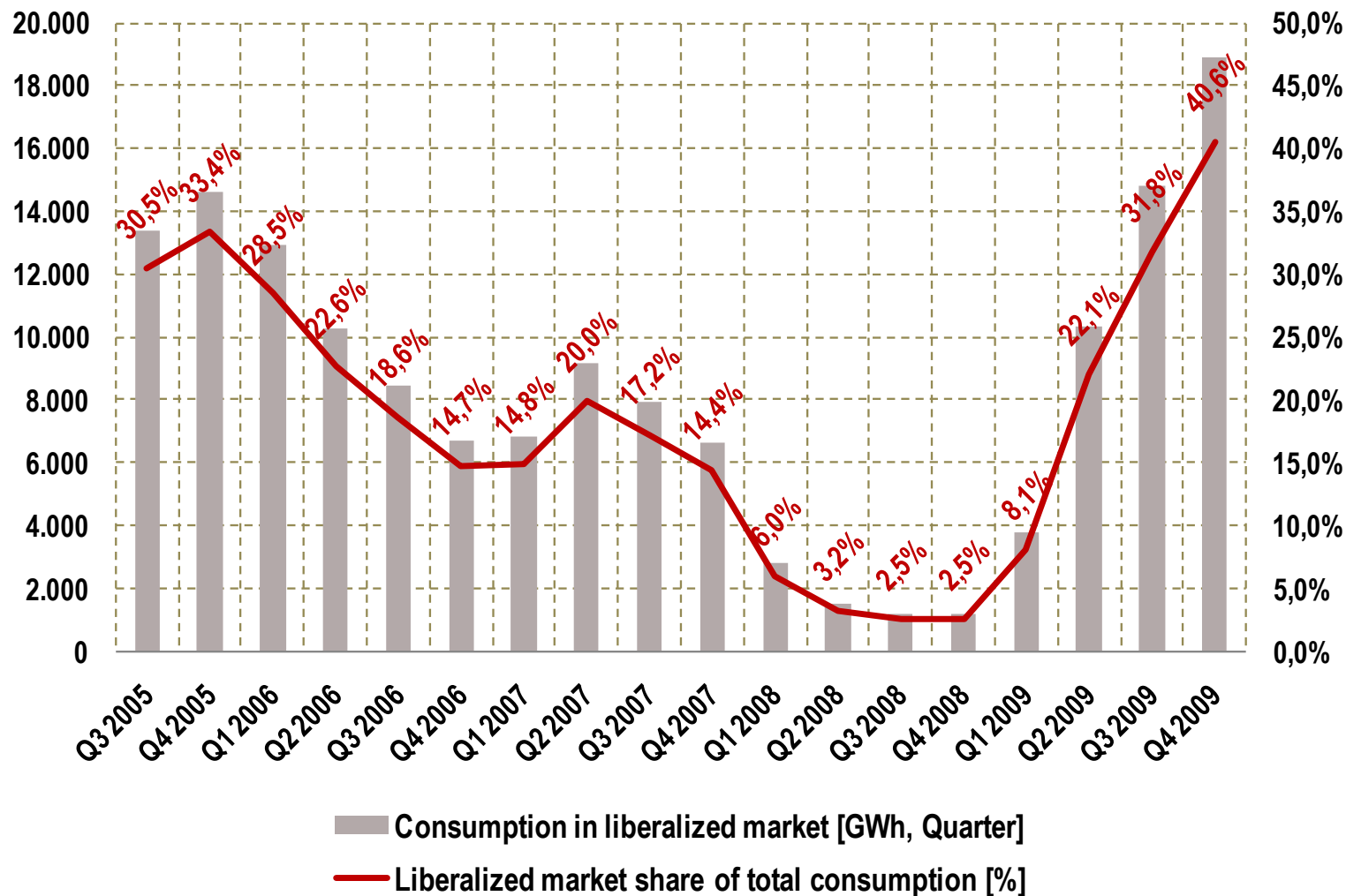
- Access to information
 - Answer to consumer information requests.
 - Publication of information concerning consumer protection (e.g.: the European Energy Consumer Checklist).
 - Publication of information to enable consumers to make informed choices (leaflets and website information, price comparators, etc.).
 - Play a proactive role in consumer education (training programs, specially for entities that work with consumer protection).
 - Joint work/ cooperation with consumer organizations.

- Complaints/dispute settlement
 - ERSE has dedicated consumer channels that include telephone, online, written correspondence and person-to-person services.
 - ERSE promotes alternative dispute resolution and apply their procedures.
 - Free of charge system.
 - There are regular meetings with the suppliers and distribution operators to discuss complaints and procedures.

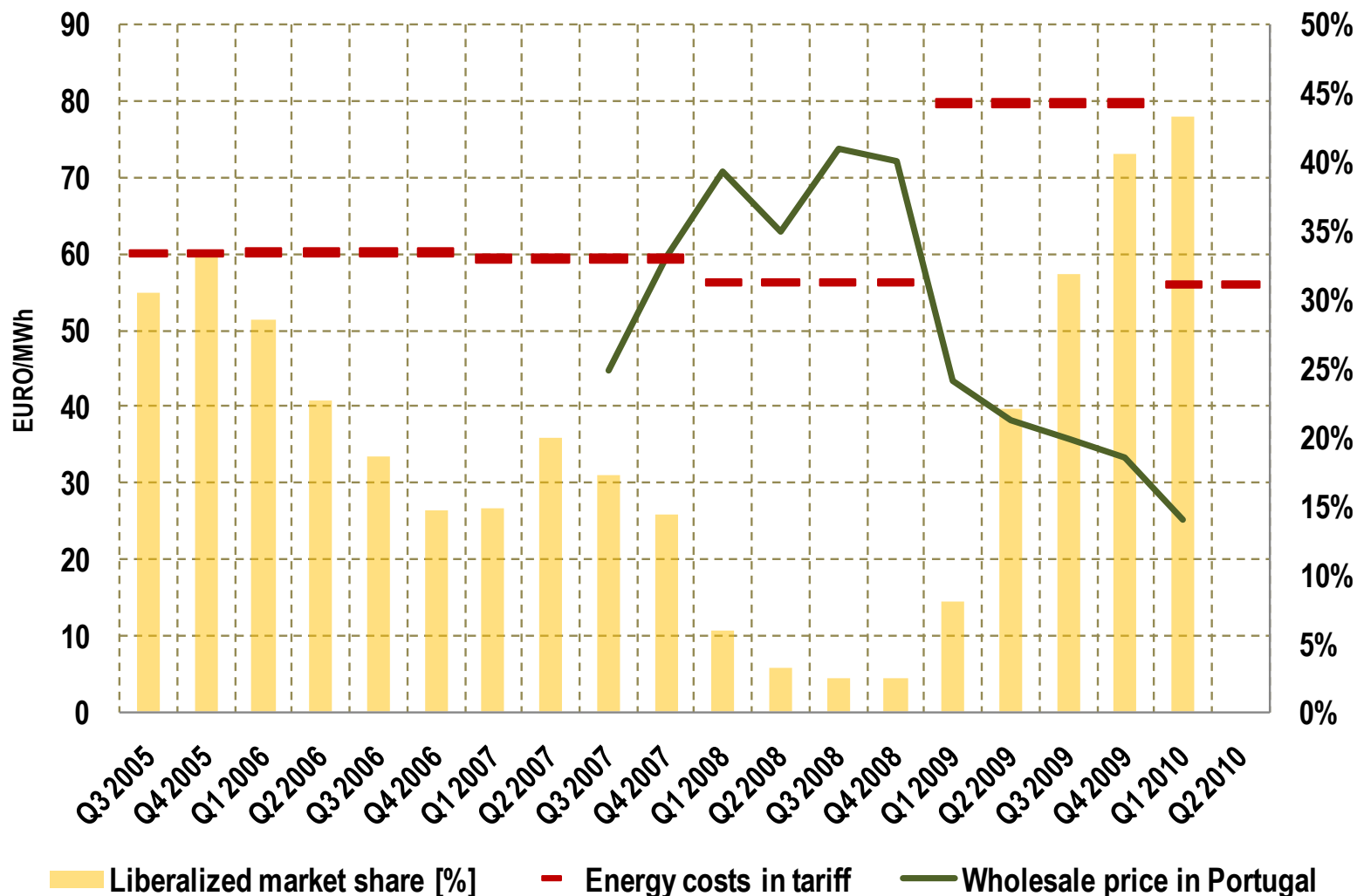
Customers in liberalized retail market – households and other



Consumption in liberalized retail market – Volume and share of total



Wholesale market price vs. energy costs in regulated tariff



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Ongoing work

- Further market liberalisation, including elimination of regulated end-user tariffs
- Directives transposition/implementation
- Definition of vulnerable customer concept and protection measures
- Build confidence among consumers
 - Information (single point of contact, Checklist communicated to all consumers)
 - Greater transparency and comparability of offered prices
 - Complaint's handling (simple and inexpensive procedures)
 - Simple, clear and informative bills
- Promote the active participation of customers in the market
 - Smart metering (tariff innovation, accurate billing, new energy services, easier supplier switching, increased energy efficiency)
 - Smart grids (energy efficiency, microgeneration)

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