



## District Heating and Cooling Demands from a consumer's perspective

### Key points

District heating is, on the one hand, an important energy efficiency measure. On the other hand, it is an important infrastructure to increase the share of renewable energy in heating and cooling. Moreover, district heating is a natural monopoly. However, there is no strong regulation in place comparable to electricity and natural gas. This is also true for heating and cooling generated within the building. Consumers generally are in a weak position with high infrastructure costs entailing high prices.

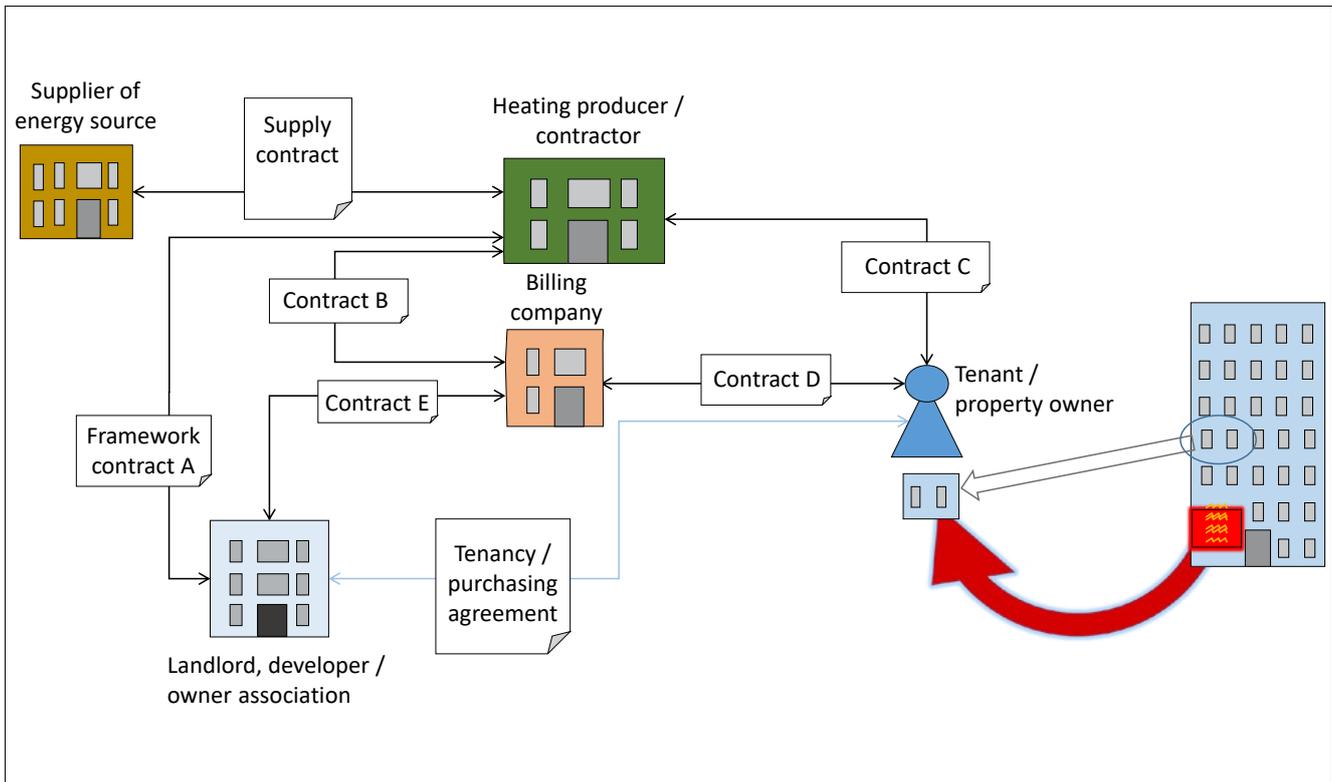
Five key problems in this area were identified:

- Lack of transparency in price structures and billing: consumers cannot make price comparisons nor estimate the overall heating cost. There is a substantial price difference between “regulated” prices and individual heating sales prices.
- High level of complexity: the increasing number of contractual partners furthers the lack in price and contract transparency as well as complex price adjustment clauses.
- Poor price controls: there is no sector-specific oversight and only limited price controls in place. The cancellation of heating contracts or a change in the heating system is often technically or legally not possible or expensive. There is no possibility to switch the supplier.
- Inadequate consumer protection: existing consumer protection regulations in similar services (such as electricity and gas) do not apply although the supply of heating is a public service.
- Lack of legal recourse: there is no mandatory participation of companies in ADR. Existing forms of dispute regulation are very limited as well as unclear. Therefore, claims have to be brought before a court in long and expensive trials.

### Background

More and more consumers are complaining to the Chamber of Labour about excessive or overly complex heating bills for district heating. Consumers are generally unsatisfied especially since the composition of costs as well as the annual energy bills are largely incomprehensible. On top of this, the local and district heating market is structured like a monopoly. Unlike the electricity and gas markets, customers cannot simply change their supplier, even if they are unhappy with them.

In most consumer complaints, there is usually a “triangular relationship” in which two partners (landlord/landlady or developer on the one hand and heating supplier on the other) agree on long-term contracts, while it is the tenants and property owners who are directly impacted. There is little pressure to aim for the lowest possible prices. This issue becomes even more critical when the two parties involved financially benefit from an agreement whose costs are to be borne by the tenant or property owner. Often billing companies are involved as an additional actor.



Example for In-House heating: Contract chaos with total lack of transparent rights, obligations and prices

## Main findings

The market research firm Kreutzer, Fischer & Partners examined the price and contract structures of 14 local and district heating suppliers in Vienna, Lower Austria and Styria. A second study by Dr Walter Reichholf focussed on the legal aspects of supplier contracts with consumers. On the basis of these two studies (market and contract analyses) the expert opinion of Prof Martin Winner examines what lies behind these deficits in legal terms and where there is a need for new legislation. Following these key research projects on the field, the AK was able to identify five key fields in which adaptations are needed.

### Lack of transparency in price structures and billing

According to Kreutzer, Fischer & Partners, the local and district heating market in Austria is characterised by its extreme lack of transparency. Heating suppliers are unwilling to provide any general information about their local and district heating contracts and household heating prices. From a consumer rights perspective, this kind of behaviour is more than unsatisfactory. The price structure of the local and district heating market is inconsistent, complex and often lacking in transparency. The individual price elements and the way heating costs are calculated vary from supplier to supplier. As a consequence, it is impossible for consumers to compare prices. However, the market analysis reveals major price differences of up to 60%.

The market for the supply of heating to buildings is not subject to price controls and it is impossible to make a simple price comparison, as consumers are used to doing with their fuel, electricity and gas prices. Despite the monopolistic structure of the market, there is no sector-specific oversight. The Austrian energy regulatory authority (E-Control) performs this function in the comparable electricity and gas market. Despite district heating having become an important energy source over the recent years, the energy regulatory authority is not responsible for the local and district heating market.

There is also a lack of transparency with regard to energy consumption and the identification of energy sources. Bills do not necessarily provide information about individual energy consumption or comparisons with the previous year, which makes it difficult for consumers to estimate their costs. Furthermore, also information about the primary energy source that provides the heating is missing. Yet, all this data is regulated for electricity suppliers and is listed on every annual electricity bill.

Therefore, there must be a compulsory provision for a breakdown of the types of costs involved in the price of local and district heating so that tariffs can be compared as well as a uniform pricing structure. A price monitoring authority could further increase transparency and enable cost comparisons. Likewise, the regulator (E-Control) should be able to reject tariffs and terms and conditions (such as price adjustment clauses) in

contracts and minimum requirements should be set for bills and information materials. Housing providers must inform housing users about heating and hot water costs before they sign the contract. Moreover, an independent help desk has to be established and an annual report on the local and district heating market (market report) should be published by an authority. Such a help desk could, for example, be part of a Consumer Information Association.

### High level of complexity due to the lack of transparency

The contractual conditions and price structures are very difficult for consumers to understand, and the growing number of market players is only increasing this lack of transparency. Along with complicated price calculations for district heating, there are also numerous costs involving “third parties” for metering, billing etc. and costs for the services of the heating vendor. As a result, it is impossible for individuals to determine their overall costs for heating and hot water and when intermediaries are involved there is also a risk of being charged twice. Price adjustment clauses (some with price parameters that are not made available to the public) only exacerbate the problem of lack of transparency. They vary from supplier to supplier and are often very opaque (with up to seven indices that are not even available to the public in some cases). In addition, this “price escalator clause” is often only explained in a limited way in the suppliers’ Terms and Conditions or heating supply contracts.

A key element of solving these issues is increased regulation leading to more transparency and that the district heating producer must also be the heating vendor for the end customer (tenant, property owner), a third party may not carry out these activities under their own name. This does not exclude the commercial heating producer commissioning a third party to look after the metering or billing. Exceptions can exist for building owners (landlords/owners’ associations) acting as heating vendors (if tenants or property owners do not have individual contracts). In the event that heating is generated within the building itself, the building owner (landlord/owners’ association) should always be the direct heating vendor for users (tenants/property owners).

### Lacking price controls

Another problem is the fact that it can be extremely expensive for customers if they fall behind on their payments. For lower-income households, this can quite simply be a disaster. The gas and electricity market is subject to strict regulatory price controls for the monopoly that is the grid, but this does not apply to the district heating market. Here, prices are based only on contractual agreements. The Price Act is the only way of exercising control and oversight, but it is a weak instrument that does not resolve the structural problems

of the local and district heating market, and it is only used in three Austrian cities – Vienna, Graz and Linz. The Austrian Price Act is not sufficient in this respect. In the event of a price increase, unlike in the electricity and gas sector, consumers cannot change their local and district heating supplier but simply have to accept the increase. They can terminate their contract, but generally there is no economically or technically viable alternative for the supply of heating and hot water.

“Heating contracting” is a particular problem. This type of contract may be used when heating is generated within the building by a commercial heating producer, as well as with regard to local and district heating. In these circumstances, the Austrian Heating Costs Billing Act does not expressly prohibit set-up charges for the heating plant/transmission station being included in ongoing heating costs. Therefore, many developers use this contracting model in order to offer the properties at (what appear to be) lower prices, while achieving higher profit margins. The installation costs for the heating plant/transmission station – and more – are later on paid by the tenants/owners in the form of ongoing, extremely complex heating bills.

### Missing safeguards

In addition, the consumer protection regulations that are in place for electricity and gas customers do not apply here. This is alarming, as the supply of heating is also a public service. Heating suppliers whose domestic heating prices are set by means of pricing guidelines in line with the above-mentioned Price Act – as weak as it is as an instrument for price regulation – generally offer lower prices. However, as these price controls only apply to district heating companies in Vienna, Linz and Graz, the authorities in all other Austrian states do not make use of this price regulation instrument. This means that the majority of local and district heating suppliers in Austria are subject to no regulation, despite the fact that they hold a monopoly-like position. Although the supply of electricity – which is subject to safeguards for consumers – is just as important as the supply of heating, there are no specific safeguards for the latter. This unequal legal treatment cannot be objectively justified and has a particular impact on low-income households. They often have to pay high charges for the disconnection and reconnection of their heating supply.

Therefore, safeguards for consumers have to be implemented, including an official warning notice given before disconnection as well as the prohibition of disconnections on weekends or public holidays. The charges should be regulated, as is the case in the gas and electricity sectors and there must also be a cap on additional charges (such as disconnections and dunning) as well as the general duty to provide heating.

## Improve legal recourse

Access to the arbitration service set up in the wake of the Heating Costs Billing Act is very limited and it is difficult to check information. There are very few arbitration services in Austria leading to a lack of legal protection. The only possibility of legal recourse is the courts, which is an expensive, time-consuming and risky process. This acts as a deterrent. Hence there is a need for simpler, less official procedures through the

establishment of an arbitration service that is accessible to all (as is the case in the electricity and gas sector), and that is responsible for all aspects of this kind of heating supply. This responsibility should be given to a special authority since E-Control already oversees arbitration procedures in the gas and electricity sectors. Through this the procedures would be shorter, less expensive and more effective.

## Demands

AK demands a reform of the framework conditions of the local and district heating and cooling markets and the amendment of the inadequate legal regulations for heating and cooling supply from common heating and cooling facilities (located within the building or on the same property) on European level through:

- Fostering consumer rights, enhance price and contract transparency, easily accessible and independent possibilities of price comparison and a regulatory framework,
- Improved consumer protection as it is the case in the electricity and gas sector,
- Improved contract transparency,
- Effective price controls and independent price comparison tool,
- Independent control & advice,
- An easily accessible legal recourse for consumers.

## Literature

**Kreutzer, Fischer & Partner on behalf of the Vienna Chamber of Labour and Klima- und Energiefonds (2016):**

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