

12 October 2018

Sarah Court  
Commissioner  
Australian Competition and Consumer Commission

Submission via ACCC Consultation Hub

Dear Ms Court,

### **Consultation on Consumer Data Right Rules Framework – ACCC**

Simply Energy welcomes the opportunity to provide feedback the Consumer Data Right (CDR) Rules Framework.

Simply Energy is a leading second-tier energy retailer with over 660,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. Simply Energy supports the CDR Framework as a means of enabling greater competition and customer engagement in the energy market. Whilst acknowledging that the current draft framework is not energy specific, Simply Energy considers the proposed scope of CDR Rules Framework is appropriately adapted in providing consumers access to their energy data in a secure manner.

In exploring the requirements of the proposed draft, Simply Energy's submission briefly evaluates:

- the adoption and development of the framework in the energy sector;
- analysis of HoustonKemp recommendation report; and
- proposed next steps.

#### **Adoption and development of the framework in energy sector**

It is acknowledged that the CDR framework will be incrementally introduced and implemented in the energy sector. Simply Energy supports the draft proposal in the enabling legislation where the rules do not apply retrospectively in terms of imposing obligations on data holders.

Simply Energy also understands that the ACCC will be responsible for enforcement of the CDR rules as they apply to business systems and processes, while the Office of the Australian Information Commissioner will uphold individual data and privacy rights. Simply Energy supports this enforcement regime, and notes that due consideration will need to be given to those requirements that may be deemed civil penalties under the ACCC's rules. Simply Energy maintains that civil penalties should be used as a last resort to deter and denounce serious contraventions of the obligations under the CDR.

Further, the scope of the potential rule making powers is very broad and as noted above, it is important that the ACCC should be able to make rules that can be tailored to the needs of energy sector consumers. As such, Simply Energy considers that sufficient safeguards and processes need to be in place to ensure the ACCC undertakes a thorough assessment of the requirements for the energy sector and is accountable for the decisions it makes under the relevant rules.

## Analysis of HoustonKemp recommendation report

Simply Energy considers that drafting of the rules will have the most significant impact on energy sector in terms of imposing rights and obligations on industry participants. Before the ACCC considers imposing rules on the energy sector, it should be acknowledged that further work is required around the HoustonKemp recommendations. These are high-level recommendations that were endorsed by the COAG Energy Council without thorough operational-level consideration and industry consultation.

Simply Energy supports most of the recommendations set out in HoustonKemp's Final Report. Nevertheless, Simply Energy is concerned that the recommended approach does not achieve the policy objectives of the CDR. This could, in turn, lead to privacy and security risks, which could lead to delays in the implementation of the CDR. For example, Simply Energy has noted several technical errors in HoustonKemp's report and also considers that further analysis of the implementation costs is required.

Simply Energy would like to emphasise that there will be other issues to work through in the process of refining the application of the CDR to the energy sector, including but not limited to, accreditation standards and access to ombudsman schemes.

### Proposed Next Steps

Simply Energy considers that there will need to be further industry consultation to develop the next level of detail and to fully scope industry-level requirements.

In closing, Simply Energy would welcome the opportunity to engage with the ACCC, as well as other key stakeholders such as AEMO and ECA, on the technical issues to implement the energy sector CDR in the most efficient and timely manner. Simply Energy is more than happy to contribute expertise towards the drafting, finalisation, as well as implementation of the rules with a view to achieving the CDR in a cost efficient and timely manner.

Simply Energy looks forward to engaging with you on these matters. If you have any questions or would like to engage in discussions with Simply Energy, please contact Aakash Sembey, Industry Regulations Manager, on [REDACTED].

Yours sincerely



James Barton  
General Manager, Regulation  
Simply Energy