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31 January 2020

The Manager
Consumer Data Right
The Australian Competition and Consumer Commission
GPO Box 313
CANBERRA ACT 2601

accc-cdr@accc.gov.au

Dear Sir/Madam

Consumer Data Right (CDR) – Consultation on how best to facilitate participation of third party service providers

Ergon Energy Queensland Pty Limited (Ergon Energy Retail) welcomes the opportunity to provide a submission to the Australian Competition and Consumer Commission (ACCC) in response to the *Consumer Data Right – Consultation on how best to facilitate participation of third party service providers*.

Ergon Energy Retail's detailed comments in response to the ACCC's consultation questions are provided in the attached table.

Should the ACCC require additional information or wish to discuss any aspect of this submission, please contact me on [REDACTED] or Laura Males on [REDACTED].

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Trudy Fraser', enclosed in a rectangular box.

Trudy Fraser
Manager – Policy and Regulatory Reform

[REDACTED]

Encl: *Ergon Energy Retail comments to consultation questions*

DRAFT responses to ACCC how best to facilitate participation of third party service providers

Question	Ergon Energy Retail Response
Consultation questions: intermediaries	
<p>1. If you intend to be an intermediary in the CDR regime, or intend to use an intermediary, please provide a description of the goods or services you intend to provide to accredited persons or to CDR consumers using an intermediary. Do you intend (or intend to use an intermediary) to only collect CDR data, or collect and use CDR data? What value or economic efficiencies do you consider that intermediaries can bring to the CDR regime and for consumers?</p>	<p>Ergon Energy Retail provides no comment.</p>
<p>2. How should intermediaries be provided for in the rules? In your response please provide your views on whether the rules should adopt either an outsourcing model or an accreditation model, or both and, if so, and in what circumstances each model should apply.</p>	<p>An accreditation model would remove some of the risk to retailers when selecting an intermediary. However, we note that the accreditation model may limit the number of potential providers of the relevant services if the potential information technology service providers do not go to the effort of obtaining accreditation, or the CDR rules allocate too much risk to the intermediary.</p>
<p>3. What obligations should apply to intermediaries? For example, you may wish to provide comment on:</p> <ul style="list-style-type: none"> a. if intermediaries are regulated under an accreditation model, the criteria for accreditation and whether they should be the same or different to the criteria that apply to the current 'unrestricted' level, and the extent to which intermediaries should be responsible for complying with the existing rules or data standards; b. if intermediaries are regulated under an outsourcing model, the extent to which contractual obligations should 	<p>Ergon Energy Retail suggests the intermediary has a direct obligation to comply with all relevant CDR rules, rather than having to seek compliance through the Retailer's contract with the intermediary.</p> <p>If an outsourcing model is used, it is our view that the CDR rules should prescribe terms for inclusion in the contract between the electricity entity and the intermediary, as this will speed up negotiation of the contract as these terms will be non-negotiable.</p>

Question	Ergon Energy Retail Response
<p>be regulated between accredited persons and intermediaries;</p> <p>c. if the obligations should differ depending on the nature of the service being provided by the intermediary.</p>	
<p>4. How should the use of intermediaries be made transparent to consumers? For example, you may wish to comment on requirements relating to consumer notification and consent.</p>	<p>In our view, the use of intermediaries should be addressed in the accredited person's CDR Policy and also flagged to the consumer at the time that the accredited person receives the data from the consumer.</p>
<p>5. How should the rules permit the disclosure of CDR data between accredited persons? For example, you may wish to comment on requirements relating to consumer consent, notification and deletion of redundant data, as well as any rules or data standards that should be met.</p>	<p>Ergon Energy Retail provides no comment.</p>
<p>6. Should the creation of rules for intermediaries also facilitate lower tiers of accreditation? If so, how should the criteria and obligations of new tiers of accreditation differ from the current 'unrestricted' accreditation level, and what is the appropriate liability framework where an accredited intermediary is used?</p>	<p>Ergon Energy Retail provides no comment.</p>
<p>Consultation questions: permitting CDR data to be disclosed to non-accredited third parties</p>	
<p>7. If the ACCC amends the rules to allow disclosure from accredited persons to nonaccredited third parties and you intend to:</p> <p>a) receive CDR data as a non-accredited third party, please explain the goods or services you intend to provide, the purposes for which you propose to receive CDR data, and how this may benefit consumers;</p>	<p>a) Ergon Energy Retail provides no comment.</p>

Question	Ergon Energy Retail Response
<p>b) be an accredited person who discloses CDR data to non-accredited third parties, please explain the intended goods or services you intend to provide and how they may benefit consumers.</p>	<p>b) The intended goods and services will:</p> <ul style="list-style-type: none"> • Support/enable the continuous implementation of the Power of Choice (PoC) principles. • Provide customers with more information, insight and choice in to their energy use and expenditure. For example tariff optimisation, energy use and budget alerts. • Enable development of new products such as electric vehicle tariffs, load management (for the customer, network and market to the customer's benefit), solar and other analytic capabilities. • As an element of Ergon Energy Retail's PoC response and Retail's Digital Enablement Strategy, it will support the Retail Customer Strategy that embraces digitisation, driving productivity and ensuring compliance.
<p>8. What types of non-accredited third parties should be permitted to receive CDR data? Why is it appropriate for those types of third parties to be able to receive CDR data without being accredited?</p>	<p>In our view, the following types of non-accredited third parties should be permitted to receive CDR data:</p> <ul style="list-style-type: none"> • Lawyers, accountants and financial advisers <ul style="list-style-type: none"> ○ Existing client confidentiality obligations • Contracted service providers that enable the provision of services to our customers <ul style="list-style-type: none"> ○ Reduce service provision costs and provide more efficient and reliable customer outcomes ○ Reduce data transfer risk including risk of data gaps and errors in data being sent via another third party ○ Improved timeliness of data provision

Question	Ergon Energy Retail Response
	<ul style="list-style-type: none"> ○ Reduced likelihood of customer complaint and complaint resolution cost ○ Enhance self-service of their data by customers ○ Greater flexibility in system architecture e.g. to enable near real-time data provision (for load management and energy use (e.g. kilowatt demand) alerts and connection to and integration of other customer devices and third party information (e.g. solar inverters, load control) – these would not be possible via other third party due to time lags etc.
<p>9. What privacy and consumer protections should apply where CDR data will be disclosed by an accredited person to a non-accredited third party?</p>	<p>It should require the CDR privacy principles be applied to both accredited and non-accredited third parties.</p>
<p>10. What degree of transparency for CDR consumers should be required where an accredited person discloses CDR data to a non-accredited third party? For example, are there particular consent and notification obligations that should apply?</p>	<p>Customers' informed consent should be sought before data is provided to non-accredited third parties. The CDR should include exceptions for contracted service providers (where terms and conditions have previously been accepted by the customer) or to lawyers, accountants or financial advisers (as they have existing client confidentiality obligations).</p>