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Commissioner
Australian Competition and Consumer Commission

Lodged by email: ACCC-CDR@acc.gov.au

Consumer Data Right data access model for energy consultation

Public submission

EnergyAustralia welcomes the opportunity to make this submission to the ACCC's Consumer Data Right data access model for energy Consultation paper.

EnergyAustralia is one of Australia's largest energy companies with around 2.6 million electricity and gas accounts in New South Wales, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own, operate and contract an energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 4,500MW of generation in the National Electricity Market (NEM).

EnergyAustralia supports the development of the Consumer Data Right (**CDR**) in the energy sector. If designed with the customer at the centre, it will be a measure that will support more transparency in retail energy markets and make it easier for customers to choose the right energy service for them.

We note some high-level comments in this covering letter and answer the ACCC's specific Consultation paper questions below.

Context

Energy industry

We ask that in developing the CDR Rules, the ACCC should consider the very significant regulatory change impacting the energy industry. In 2019, the industry will be impacted by the introduction of default retail prices in both jurisdictions (NCEF states/territories and Victoria), and other material retail market reform. Together, these changes will have a financial impact and significant regulatory cost. These changes place significant pressure on the industry and its ability to prepare for the CDR in the short term.

Current consultation

EA has been actively engaged in the development of the CDR. We provided detailed submissions on the Treasury Bill in 2018 and participated in various forums with the ACCC and Data61 (on technical standards), AEMO and other retailers. Our views in those submissions remain current (except for those relating to the choice of data access model), and we ask that the ACCC consider those views as part of its evaluation of the data access model.

From consultation to date, we observe that consultation and the development of regulation should not be rushed. Consultation should fully set out the issues and clearly define proposed options to support effective consideration by industry. For example, in the current consultation, the datasets, responsibilities of each party under each model, and underlying IT architecture is unclear, making it difficult to definitively select a preferred option.

We also emphasise the need to consider the cost-benefit of regulation to the energy sector. This should consider actual (and not perceived) benefit of regulation against the regulatory cost, at every decision point.

As previously submitted to the Department of Treasury, the consumer data rules and consultation on them, will need to be tailored to address:

- The number and diversity of energy sector participants who may hold or require data.
- The existing legal and regulatory regime relating to the retail energy sector, including the handling of metering data, and different state and territory legal and regulatory regimes.
- The nature of data held by energy sector participants.
- The nature of CDR consumers in the energy sector.
- The state of competition in the energy sector, including existing mechanisms in the sector that have been designed to enhance competition, such as the government comparator websites which hold energy product data.

Lastly, we urge the ACCC and Department of Treasury and other stakeholders to time the rollout of the CDR to the energy industry so that it can benefit from the learnings of the CDR in the banking sector.

Preferred model

Overall, based on the designated datasets including Billing and Product data, our preference is for Model 2 (the AEMO gateway model). This model has the potential to be customer centric, allowing for a streamlined experience and avoiding unnecessary customer interaction. This model is also likely to be more cost effective across the market (including costs to AEMO) and ultimately for customers, due to leveraging a centralised contact point (AEMO), existing B2B e-hub infrastructure, and avoiding duplication in IT infrastructure (compared to Model 3).

While we support Model 2, we ask that the ACCC clarify the consent and authentication/authorisation arrangements under the model including roles and the IT solution. We support a central source of authentication/authorisation for the consumer and data recipient as this could provide for a better streamlined customer experience.

The timeframe for implementation by mid-2020, in the context of other retail market reform, complex interactions between many parties, and significant IT build, may not be achievable. Our experience with the recent life support rule change (in NCEF states/territories) which impacted AEMO, retailers and distributors and required B2B changes, showed that lead times need to account for enough planning and testing.

Datasets

We understand that the Department of Treasury will decide shortly on the designated datasets. Our view is that NMI standing data, Customer provided data, and metering data (which can be

used to determine consumption data), are the core datasets a customer needs to make an informed decision about their energy products. The scope of datasets should be contained to these datasets and exclude others.

As previously submitted, we emphasise that the datasets should not include proprietary value-added data. Value-added data is the intellectual property of the data holder, and the market should be permitted to place a fair value on the intellectual property rights attached to that data and promote further investment in creating value-added data. The threat of regulation (via subjecting that data to the CDR) would deter this investment in the sector. Innovation and competition would be negatively impacted to the detriment of customers. Separately, there may also be technical challenges in converting value-added data to standardised API formats.

We recommend that the designation of the datasets should be staged, grouping like sets of data. This will allow for staged implementation and an assessment of customer uptake and benefits at each stage. The initial stage should involve data already exchanged by market participants - NMI Standing data and metering data.

If you would like to discuss this submission, please contact Shawn Tan at +61 3 8628 1512 or Shawn.Tan@energyaustralia.com.au.

Yours sincerely

Sarah Ogilvie
Industry Regulation Leader

Question 1: Any other assessment criteria or relevant considerations which the ACCC should use to determine a preferred model

We agree with the ACCC’s assessment criteria, but consider the below additional matters are important in specifically assessing the preferred model:

- The design of the CDR data access model should be customer centric and driven by actual (and not perceived) customer benefit and likely volume of customer uptake. This should be tested via customer focus groups/product sprints.
- The customer benefit should be weighed against regulatory costs, even when making more granular decisions in the CDR rules.
- The purpose or “use case” for the data should be understood i.e. how CDR data will likely be used by customers and industry.
- Minimisation of duplication across all dimensions: roles/responsibilities, IT infrastructure build including APIs, front of house resourcing, and customer interactions.

Question 2: Advantages and disadvantages of each of the models

	Advantages	Disadvantages
Option 1 – Centralised model	<p>Multiple aspects are centralised and there would be one central point of contact for:</p> <ul style="list-style-type: none"> • Requests to access consumer data by the accredited data recipient. • Authentication of a customer’s identity. • Authorisation by a customer. <p>This centralisation would mean a streamlined customer experience with less unnecessary interaction.</p>	<p>AEMO needs to invest significantly in new IT infrastructure to store data, when retailers already store this data.</p> <p>Security of data risks - a single point of failure for the new system</p> <p>AEMO to significantly invest in front of house and systems for customer interactions, where AEMO does not currently interact with customers. Lead times must account for AEMO taking on a customer facing role.</p> <p>Retailers to invest in new capability to trigger updates to AEMO on all datasets and building bespoke APIs to provide data to AEMO.</p>
Option 2 – Gateway model	<p>Gateway centralisation could achieve the same advantages of centralisation above, including streamlined customer experience.</p> <p>We support AEMO centrally managing the authentication and authorisation process and supporting IT applications. Where retailer data is required to be authenticated, AEMO would transact with retailers in the backend, potentially with multiple data holders.</p> <p>AEMO would need to determine from MSATs whether there are multiple data holders for a request, and route requests to the correct data holder.</p> <p>Leverages off existing AEMO IT infrastructure and standards (B2B e-Hub, potentially aseXML).</p>	<p>Consent and authorisation framework are still unclear.</p>

	Leverages off existing retailer infrastructure to store data. Security of data - data is decentralised (e-Hub works as a router, not a data store).	
Option 3 – Economy wide model	Leverages retailer experience in customer interactions for the authentication and authorisation process. High security of data - data is decentralised	More duplication: <ul style="list-style-type: none"> • More IT infrastructure and APIs would need to be built for multiple interactions between each accredited data recipient and data holder. • Multiple touchpoints for a customer where there are multiple data holders. Customers might feel inconvenienced and disengage. • Inefficient duplication - Each data holder would have to have front of house to handle authentication and authorisation.

Question 3: Implementation/compliance costs for market participants under each model

EnergyAustralia will provide a separate confidential submission estimating its costs under each proposed model.

Question 4: Additional requirements ACCC should consider if gateway model is adopted

(a) Consent, authentication and authorisation arrangements

As noted above in the table, these are still unclear. We support AEMO centrally managing the authentication and authorisation process and supporting IT applications. Where retailer data is required to be authenticated, AEMO would transact with retailers in the backend, potentially with multiple data holders.

(b) Obligations clearly defined for each party

Obligations should be clearly defined for each party. This is fundamental to supporting the best customer experience. It includes:

- Clear contractual and regulatory obligations defined for AEMO, data holders, and accredited data recipients. These may include contractual service level obligations for AEMO’s gateway, API infrastructure and retailer IT infrastructure, and front of house staff. e.g. permitted system outages and customer response time.
- Defined privacy obligations and liability for each party, particularly where multiple parties may contribute to a data breach risk. Clear avenues for customers to seek recourse should also be set.

(c) The nature of CDR Consumer in the energy sector

The CDR Consumer for the energy sector and the data subject to the CDR could be based on the NMI (National Metering Identifier) or the customer’s account. The energy sector largely references the NMI which is site based. Multiple NMIs can be linked to a customer’s account where the customer has moved premises.

Our view is that the CDR should be based on the customer's current NMI and should exclude data relating to old NMIs. Old NMI data would be irrelevant to the customer's present purchasing decision e.g. it could reference old and different tariffs to the customer's current tariff.

Separately, as previously submitted to Treasury, the CDR consumer for the energy sector must be an account holder. Granting a CDR consumer with the ability to request data if that consumer is not an account holder would be near impossible to manage. We are particularly concerned that data holders may be required to disclose consumer data to former household members in circumstances where disclosure would be inappropriate and potentially dangerous (for example, where there is domestic abuse or other potential safety risks to a CDR consumer).

We now add that if the CDR were to be extended to persons other than the account holder, at a minimum, this should be managed by requirements for consent by the account holder and other persons.

(d) Multiple data holders

Where multiple parties hold the same datasets, the ACCC will have to consider which party should be the data holder.

Question 5: Emerging technologies that will impact the energy sector CDR

No comment.

Question 6: Cost differences to participants of providing data once a day or on demand

Real time data is likely to be significantly more costly than static/once-a-day data. Given that the AEMO e-Hub currently operates on a 24-hour basis, and NMI Standing Data is static, the ACCC should assess the benefit of on demand data compared to the cost.

Question 7: Competitive impact of accessing data through AEMO (rather than a retailer)

Government has introduced and is in the process of introducing various mechanisms to empower customer choice and aid competition in the energy industry. Governments have successfully established and maintained comparator websites in Victoria and NCEF states/territories.

Our view is that there is minimal impact for the customer in channelling data access through AEMO rather than a retailer, provided lead times account for AEMO's new functions and the customer experience is convenient and unnecessary interactions are minimised.

Question 8: Other issues

No comment.