

28 August 2020

Ms Sarah Court
Commissioner
ACCC

Submission via ACCC Consultation Hub

Dear Ms Court,

Consultation on Consumer Data Right: Energy Rules Framework Consultation Paper

Simply Energy is a leading energy retailer with over 725,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a leading retailer focused on continual growth and development, Simply Energy supports the development and implementation of the Consumer Data Right (CDR) rules framework to facilitate competition and positive consumer outcomes in the market.

Additionally, Simply Energy is a leading energy retailer with respect to Distributed Energy Resources (DER), with a successful ARENA-supported Virtual Power Plant (VPP) program in South Australia and a pipeline of projects built on this success.

In exploring the feasibility of the Australian Competition and Consumer Commission's (ACCC) proposed rules framework, Simply Energy's submission assesses:

- Eligible CDR consumers
- Preferred authentication model – Model 1
- Preferred dashboard – Option 1
- Support for phased implementation with voluntary participation
- Support for tiered accreditation

Please see below for Simply Energy's responses to the questions for stakeholders:

Q. Do you agree with our proposed approach to data sets in the energy rules? Why or why not?

Simply Energy's response:

Simply Energy supports the ACCC's broad approach because it specifies minimum inclusions of key data and allows flexibility for further refinement and specification of data sets in the standards, which is consistent with the approach taken to CDR in banking.

Q. Considering the above discussion about potentially sensitive information, what data, if any, should be subject to specific arrangements (for example, during the consent process)? Should any particular sensitive data be explicitly excluded from the proposed data sets?

Simply Energy's response:

Simply Energy supports the Data Standard Body's (DSB) CX research that found that the bundling of sensitive data, such as details about life support, hardship and concessions, with other data sets

could be a concern unless there is clear evidence that this data is fundamental to support contextualising billing information about amounts deducted, credited or received under a government energy charge rebate, concession or relief scheme or under a payment plan.

- Q. Should the gateway be subject to obligations relating to the privacy safeguards, beyond what is set out in Part 7 of the current Rules?

Simply Energy's response:

Simply Energy expects that requirements placed on the gateway regarding the applicable privacy safeguards should be, at a minimum, consistent with Part 7 of the current Competition and Consumer (Consumer Data Right) Rules 2020 (Rules).

- Q. Do you agree with our approach to determining an **eligible CDR consumer**? Why or why not? What additional factors should we consider?

Simply Energy's response:

Simply Energy supports the existing protections in the Rules that place restrictions on accredited persons seeking consent and where disclosure of data would create a risk of harm. Simply Energy considers these protections are appropriate for CDR in energy.

Simply Energy supports the proposed rule that a CDR consumer must have an account with a retailer to be an eligible CDR consumer and to exclude minors as well as large commercial and industrial customers from being eligible CDR consumers for CDR in energy, at least during the first iteration of the Rules. Including large commercial and industrial customers would increase the cost of implementation, potentially doubling the cost, as they are managed in a separate system and due to the bespoke relationship with these customers, limited CDR datasets would not be beneficial as they have data access arrangements and highly negotiated contracts in place.

Simply Energy agrees that joint account holders can include persons who have been nominated by the primary account holder to transact on the account as a secondary account holder, however the Rules should clearly define 'secondary account holder' as an eligible consumer in the context of CDR Rules, as retailers may have varying levels of nominated persons, such as persons who are not financially responsible for the account but who has 'read-only' access but no 'write access' and are unable to make any changes to the account as well as those who have full access to the account. For CDR purposes, Simply Energy agrees that nominated persons or secondary account holders who have been given a one-off authorisation by the primary account holder to transact should not be considered eligible.

In relation to 'active' and 'inactive' accounts, Simply Energy considers that a CDR consumer's account with an electricity retailer must be 'active' for them to be an eligible CDR consumer and maintain authenticity in the CDR framework. A retailer may not be able to obtain authentication from an inactive account, as the customer details may not have been updated due to the inactivity, which can adversely impact the authentication process.

One of the key guiding principles of CDR is inclusivity, and while Simply Energy acknowledges the various constraints of authentication models on non-digital (offline) customers, Simply Energy believes that the Rules should allow offline customers to be included if they have an alternative way to manage the digital interactions required by the framework, such as through a nominated/secondary account holder who can interact digitally.

- Q. Do you agree that strong consumer authentication based on a redirect model is the correct authentication model for CDR in energy? If not, please set out your preferred alternative model, and the risks and benefits of that approach.

Simply Energy's response:

Simply Energy agrees that strong consumer authentication based on a redirect model is the most appropriate model, especially as it retains and maintains the customer-retailer relationship intact. As such, consistent with recommendation 4 of the supplementary privacy impact assessment (SPIA), Simply Energy's **preferred option is Model 1**.

- Q. Do you agree that data holders should be able to rely on a single authentication carried out by another data holder?

Simply Energy's response:

Yes, however only where the authentication is facilitated by the current retailer.

- Q. Do you agree with our preference to implement Model 1 as the authentication model for CDR in energy?

Simply Energy's response:

Yes, Simply Energy agrees with the proposed preference.

- Q. Should the ACCC and DSB also facilitate Model 2, for example as an alternative for retailers who are unable to build the authentication capability required by Model 1?

Simply Energy's response:

No, Simply Energy does not support Model 2 as it diverges from the customer-retailer relationship and convolutes the CDR framework. Moreover, this alternative model is not any simpler to implement as compared to Model 1, because the 'data holder' obligations would still apply, requiring gateway-interface implementation. Moreover, removing the authentication process from the data holder is not advisable from a customer experience perspective, especially where an actively engaged CDR consumer switches from retailer A, who is operating as per Model 1, to retailer B who might be operating as per Model 2. It also increases the complexity in maintaining the authenticity controls via two separate models, and with increased complexity it adds to the incremental cost of implementation and maintenance. Hence, the overall cost of implementing and maintaining two models would ultimately cost market participants significantly more than implementing and maintaining one model, preferably Model 1.

- Q. Of the three options for **data holder dashboards**, which do you prefer and why?

Simply Energy's response:

Simply Energy supports either Option 1 or Option 3 and suggest that both these options should be explored and included in the CDR Rules. As a general tool (not from CDR perspective), some retailers already manage dashboards for various datasets and may want to enhance this by including CDR related requirements, while some retailers would prefer leveraging AEMO's platforms/APIs or other available technology to comply with the CDR dashboard requirements. Having this optionality does not change customer experience, as the customer-facing interface is being managed by the retailer.

Both these options maintain the retailer as the consumer-facing data holder, with a direct relationship with the consumer, who is required to convey the customer with information about all data being disclosed, including data disclosed by AEMO. However, the underlying technology and backend interfacing could be different, and can be assessed by each individual data holder.

Having said that, in the absence of multiple dashboard options being made available, Simply Energy supports Option 1.

- Q. Do you agree with our proposed approach to energy sector Internal Dispute Resolution (IDR)? If you are an energy retailer, to what extent do you consider your current IDR processes as required under the Retail Law or Energy Retail Code meet Schedule 3, Part 5 of the Rules?

Simply Energy's response:

Simply Energy has systems and processes in place to comply with requirements that exist for energy retailers to have in place IDR procedures for handling small customer complaints, as set out in the Retail Law and the Energy Retail Code (Victoria). Simply Energy considers it appropriate to retain the approach of having sector-specific IDR requirements that are consistent with the existing requirements in the Retail Law and the Energy Retail Code. CDR-specific IDR requirements would add cost and complexity to retailers, dispute resolution bodies, and customers for no apparent additional benefit.

- Q. What do you consider is an appropriate measure of retailer scale to justify being brought within scope of CDR in energy?

Simply Energy's response:

While Simply Energy has no set preference on the three options provided, Simply Energy suggests that a fourth phased-implementation option should be considered where only AEMO-held datasets are included in tranche 1.

Having said that, Simply Energy supports phased implementation, to lessen the impact of sector-wide implementation, as adapted in the banking sector. Simply Energy strongly supports voluntary inclusion for those participants who are ready to share CDR data early and participate into the regime at an appropriate time with/after the go-live of first tranche, however the mandated go-live for tranche 2 should be separated by at least 12 months from tranche 1, as opposed to the proposed 6 months, to realise and maximise the benefits of phased implementation, by providing sufficient time to allow stability and introduce improvements in market processes.

- Q. Do you agree with our proposals to permit data holders to come into the regime early on a voluntary basis, and to phase data holders into the regime earlier than scheduled if they become accredited?

Simply Energy's response:

Yes, Simply Energy strongly supports this proposal.

- Q. Alternatively, do you consider that we should consider introducing a lower tier of accreditation on a cross-sectoral basis for both banking and energy?

Simply Energy's response:

Yes, Simply Energy supports lower tier accreditation and suggests that accreditation should have a

1:1 association with the relevant dataset, regardless of whether the dataset relates to the banking sector, energy sector, or other sectors that will be designated in the future. Each dataset has a different level of sensitivity, and hence Simply Energy does not support the notion that energy data sets are generally less sensitive than banking data sets. However, since the current accreditation framework is quite rigid as it provides a full suite of datasets per sector, with new sectors being introduced/designated into the CDR regime, the accreditation framework should be flexible as well as scalable, depending on the participant seeking accreditation.

This approach could be highly effective in optimising the cost of implementation across all sectors.

- Q. Do you agree that data holders in energy, if they wish to become ADRs, should have access to a streamlined accreditation process analogous to that applicable in banking?

Simply Energy's response:

Yes, Simply Energy supports this proposal and considers the obligations are sufficient to grant streamlined accreditation at the 'unrestricted' tier, while at a lower tier, a relevant subset of those obligations should apply. No additional obligations should be imposed as part of a streamlined accreditation process for energy data holders.

- Q. Do you agree with our preliminary view that any streamlined accreditation requirements for energy data holders should not override the requirement for ADRs to have adequate insurance or a comparable guarantee that will properly compensate consumers for any losses that may arise from a breach of an ADR's obligations?

Simply Energy's response:

Simply Energy supports this preliminary view.

Proposed next steps

Simply Energy considers that there will need to be further industry consultation to develop and scope out all industry-level requirements necessary for the CDR Rules implementation.

Simply Energy would welcome the opportunity to engage with the ACCC, as well as other key stakeholders such as AEMO and Energy Consumers Australia, around how the CDR Rules can be implemented in the most efficient and timely manner possible.

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, Manager, Retail Regulation, on [REDACTED] or [REDACTED].

Yours sincerely



James Barton
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Simply Energy