7 September 2018

Daniel McAuliffe

Structural Reform Group

The Treasury

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Dear Mr McAuliffe,

Treasury Laws Amendment (Consumer Data Right) Bill 2018

Origin appreciates the opportunity to review the exposure draft of the *Treasury Laws Amendment (Consumer Data Right) Bill 2018*. We understand the overarching legislative approach is to provide a Consumer Data Right (CDR) framework that could apply across a broad spectrum, and potentially unknown number of future sectors. We therefore focus our comments and proposed amendments on how we believe this legislative framework would apply to the energy sector.

Objective of Consumer Data Right

Origin supports effective competition in the energy sector. We therefore appreciate the Commonwealth’s decision to establish a CDR in the energy sector to assist consumers in using their own meter and standing data to compare and select energy solutions and their providers. There is currently a high degree of policy uncertainty and market change underway in the energy sector. It is therefore important that the implementation of the CDR in the energy sector is carefully considered and executed so it provides consumers with a positive user experience while also promoting effective competition in the sector.

In that context, we have identified three key issues or gaps in the Exposure Draft that we believe require review and amendment to support a successful application to the energy sector. These include:

1. Clarification in the CDR data definition to limit the potential capture of intellectual property or value-added analysis under the existing “derived data” provision.
2. Creation of a new formal Intermediary role designated by the Minister, who can facilitate the exchange of a designated sector’s CDR between multiple Data Holders and a single Consumer.
3. Provision in the legislation for the Minister or ACCC to define consumer categories within a designated industry, where different sector consumer classifications may require tailored rules to align with existing industry sector legislative definitions.

The first issue is generic across all industries. The next two issues or gaps relate specifically to how the CDR would apply to the energy sector. To provide context to why we believe these changes are necessary, we provide an overview of how we see the CDR regime operating in the energy sector. We then explain why amendments two and three are necessary to support the successful application of the CDR to this sector. We separately provide specific notes on other aspects of the legislation in **Attachment 1** and address the shortcomings with the energy sector report by consultants HoustonKemp in **Attachment 2**.

Implementing the CDR in the energy sector

The energy sector differs from banking and telecommunications in that the unique identifier of a person’s consumption data is a meter – which is not unique to the person themselves but the property at which they are consuming energy. The energy retailer is the only person in the market today who can match a meter number (National Meter Identifier or NMI for electricity) with the authorised person. However, across a year, the same person could have different retailers at a single house (NMI). This is consistent for both electricity and gas.

By contrast in banking, a person’s account only includes that person’s transactions. If they move their account from one bank to another, the transactions stop at the first bank and then start up at the next. No one new starts accruing new transactions in the closed account at the first bank. Energy is unique in how it requires a combination of verifications to identify both the authorised person and their meter number to access consumption data – at all relevant properties within a time period.

From a consumer experience perspective, the energy sector would prefer to provide a single point of contact for consumers to request CDR data. The Council of Australian Governments (COAG) Energy Council considers the Australian Energy Market Operator (AEMO) could play that facilitation role for energy – or at least for NMI meter data and standing data requests to start with. However, AEMO does not physically hold the relevant consumer data today to provide that service. Energy retailers hold both the consumer specific NMI meter data and consumer standing data.

It is not practical for energy retailers just to transfer this data to AEMO either. Consumers churn (change retailers), move, and update contact and account details daily. If AEMO were to be the CDR data holder, then retailers would be forever updating AEMO’s records to keep them up to date; but there would always be a risk of a timing mismatch between that data update and processing a consumer data request. The result could be a consumer receiving consumption data for a property that is not actually theirs. Receiving incorrect data would not deliver a positive consumer experience and could have privacy law implications.

The most practical way to avoid this mismatch of NMI meter data and standing data is for energy retailers, upon request to provide that information directly to AEMO, who would pass it onto the requesting party. They can do this using Shared Market Protocols (SMP) transactions. SMP transactions allow a request and response to be created with known (and agreed) standards, formats and data sets.

With the necessary information, energy retailers can verify a consumer’s data request by validating they are who they say they are and that they resided at a given residence for the defined period. AEMO can validate which retailer was financially responsible for a NMI for any defined period and direct a data request to each relevant retailer for the period the retailer was responsible. Each retailer can undertake their own validations and, once confirmed, provide AEMO with their proportion of the data set. AEMO can then provide the various data sets to the consumer (or their authorised representative).

The CDR legislative framework, however, does not seem to allow for a formal role of this nature. We therefore propose the introduction of a new role – an Intermediary – to accommodate sectors like energy, where a consumer’s data is linked to a static reference point (in this case a physical meter) but the underlying data could be held by different parties. We expand on this proposal below.

1. Consumer data right definition

Origin is concerned with the breadth of the proposed definition of CDR data. Specifically, we believe the scope of directly or indirectly derived data is too general for application in any industry. While we appreciate the CDR framework is deliberately broad to cater for future sectors, even in those yet unknown sectors, it is unlikely the framework would want consumers and accredited data recipients to have access to a data holder’s own business analysis, commercial insights or other related forms of derived data. The basis for competition in any industry is how effective businesses are at using that core, base data to promote innovation and investment to deliver better outcomes for consumers.

Our first recommendation would be to remove the reference to derived data from the legislation. We appreciate in some industries derived data may be relevant from a CDR perspective, but we consider the designations of data sets could capture those specific data sets thereby removing the legislative uncertainty and risk for other designated industries. Applying any “derived data” concept (i.e., drawing the line between data capture and data not captured) would be difficult (and conducive to inconsistent application between data holders) and subject to scrutiny and challenge by customers and the regulators (leading to inefficiencies). Limiting CDR data to well-defined data sets would provide the best level of clarity.

Should that recommendation not be accepted, a second-best option would be to tighten the scope of derived data in a way that promotes competition and innovation in a designated sector and carves out proprietary or commercially sensitive data. We therefore propose the scope of derived CDR data to be limited to that derived as a result of work necessarily performed in delivering or providing a CDR consumer a particular product or service. Proposed drafting is included below in **Box 1**.

Scoping the definition in this way removes the risk that proprietary analysis or commercial insights and assessments may be inadvertently captured should the Minister’s designation of data sets for a sector be more generic than specific. This de-risking opens up businesses to continue to pursue innovation and product development without the concern that a competitor may end up with access to that underlying analysis and gain commercial insights at their expense. Given the objective of the CDR framework is to open up data access to promote competition and better outcomes for consumers, it would be unfortunate if the framework itself hindered that very innovation and market development.

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| **Box 1: Proposed drafting amendments to definition of CDR data** Section 56AF(2)CDR data is ***directly*** or ***indirectly derived*** from other CDR data if the ~~first-mentioned CDR data is wholly or partly derived from the other CDR after one or more applications of paragraph (1)(b).~~ following are satisfied in relation to the first mentioned CDR data:1. it is wholly or partly derived from the other CDR data after one or more applications of paragraph (1)(b); and
2. it is derived as a result of a process or work necessarily performed in order to deliver or provide to the CDR consumer the particular product or service purchased or procured by or on behalf of the CDR consumer.
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1. Proposed new designated role – Intermediary

Origin understands the policy preference is for consumers to have a single touch point to request their CDR data, which may come from multiple retailers. However, we cannot see how the energy industry could give effect to that policy intent using the CDR roles as currently defined. The proposed definitions of *data holder* and *accredited data recipient* do not allow for:

* AEMO to be a *data holder* – it is not the original holder of the CDR data and the data it does hold is not CDR data as it is not consumer specific (e.g. it holds some NMI meter data but a NMI is not a consumer identifier); nor
* AEMO to be an *accredited data recipient* entitled to pass on to a consumer the CDR data requested by a consumer where that CDR data has been disclosed to AEMO by a data holder.

Designating AEMO as a *data holder* is not the solution. The proposed designated CDR data for energy is held by multiple parties, including retailers, aggregators and possibly meter data providers and networks. It is not practical for those multiple parties to consolidate that information in a single data repository. Data is constantly being updated, be it due to customers moving home, changing retailers, changing energy plans, changing the authorised person on an energy account, changing mailing address, etc. Establishing and maintaining a ‘global’ database, and requiring a constant information flow between the data holders and a consolidated data repository to maintain an accurate database, would be inefficient, expensive and time consuming and would have limited value.

Amending the definition of *accredited data recipient* could introduce other problems. We understand this definition has been crafted to remove the risk of *CDR data* being passed outside the CDR framework and beyond the privacy safeguards that protect the security of that data. It therefore precludes AEMO – or anyone else – from undertaking the role policy makers currently intend.

Our recommendation is to create a new “Intermediary” role that is tightly controlled and used by exception. An intermediary would be a type of CDR participant and designated by the Minister using the same legal instrument used to designate a sector. Its role would be to facilitate the transfer of data between *data holders* and *accredited data recipients*. We provide a proposed definition below in **Box 2**.

Providing for and broadly defining the intermediary role in the legislation itself would:

1. provide the requisite guidance for statutory interpretation;
2. greatly assist in the development of appropriate and consistent designations or consumer data rules which will relate to intermediaries; and
3. promote the objectives of the CDR legislation in its application to any designated sector for which an intermediary is to be utilised.

To implement there are various consequential amendments that would be required in the Exposure Draft, which we have not had the opportunity to mark up. However, we welcome the opportunity to work with Treasury to elaborate on what additional amendments would be required to institute this type of role securely within the CDR framework.

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| **Box 2: Proposed definition for the new “Intermediary” role**A person is an ***intermediary***, in relation to a body of CDR data, if:(a) the person is specified in an instrument designating a sector under subsection 56AC(2) or consumer data rules made under subsection 56BA; and(b) the CDR data: (i) is information specified in, or is information within a class of information specified in, the instrument; or (ii) is directly or indirectly derived from information covered by subparagraph (i); and(c) the CDR data is held by, or on behalf of, the person; and (d) at least some of the CDR data covered by paragraphs (b) and (c) is being so held because of a disclosure to the person by another person pursuant to an instrument designating a sector under subsection 56AC(2) or consumer data rules made under subsection 56BA(1). |

1. Defining consumer categories

Origin considers the legislation requires a provision for the Minister or ACCC to define consumer categories within a designated sector. The ACCC requires the power to tailor sector rules to align with existing industry legislative definitions, provisions and protections.

Consumers differ in their size, sophistication and the range of products and services they require. The protection frameworks supporting those markets account for these differences in needs. Residential consumers have a much more prescriptive consumer protections framework compared to the more generic protections covering larger, commercial and industrial consumers. The consumer consent frameworks, in particular, operate very differently for these consumer categories. The variances in the framework are appropriate given the significant differences between the energy services required by a residential consumer compared to an aluminium smelter.

The geographic location of consumers can also give rise to protection variations. Victorian consumer protections for small consumers operate under a separate legislative energy framework to other small National Electricity Market consumers. The protection and consent schemes also differ across the Northern Territory and Western Australia, should the CDR framework extend to include those energy consumers in the future.

Additionally, the size and sophistication of larger energy consumers leads them today to negotiate and contract metering and data services directly with meter data providers (MDPs). These services include accessing meter data and can expand to include value-added services, like recommendations and capabilities to manage energy consumption to reduce energy costs. These businesses have an incentive to contract these services directly because energy is a significant input cost for them. They are already utilising existing commercial arrangements to access data as envisioned under the CDR framework for all consumers. There is an open question, therefore, as to whether the CDR framework should encompass consumers where there is already competition available for both accessing data and providing value add services. Including all consumers may overlay an unnecessary regulatory burden.

Origin is particularly focused on making sure the rules framework can cater for the different needs and requirements, particularly consent, to maintain consistency across regimes. As such, the ACCC needs the power to define different consumer categories and set tailored rules to accommodate their specific requirements.

**Additional comments - attachments**

We provide comments on other aspects of the legislation in **Attachment 1** and address the shortcomings with the energy sector specific report by consultants HoustonKemp in **Attachment 2**.

**Further discussion**

Please contact either Caroline Brumby on (07) 3867 0863 / Caroline.Brumby@originenergy.com.au or myself should you wish to discuss any aspect of this submission further.

Yours sincerely,



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**ATTACHMENT 1: Legislative Issues Table**

| **Draft Provision** | **Summary** | **Issue/Problem** | **Suggested action** |
| --- | --- | --- | --- |
| **56AC****Designated sectors** | The Minister for Treasury may designate a sector of the economy by specifying information held by, or on behalf of, specified persons or class of persons. The specified persons will be holders of the information, rather than the consumers. | There are multiple parties in the energy sector who could hold Designated data sets. To maintain competitive neutrality across the industry, the form of the energy sector designation will be important in ensuring the relevant scope of parties with designated data sets are included in the CDR framework.  | Defer designating the energy sector until the ACCC has had an opportunity to consider how to implement the framework in the sector. The implementation option will then inform what parties will need to provide what information and to whom. |
| **56BO****Consultation before making rules** | There is generally a positive obligation on the ACCC to consult widely before making consumer data rules.However, a failure to consult as required will not invalidate the consumer data rules.There is provision for the ACCC to makes rules after limited consultation (with the Information Commissioner only) if the ACCC considers it necessary or in the public interest to do so in order to protect any aspect of the economy or to avoid imminent risk of serious harm to consumers. (Section 56BQ) | Treasury and the ACCC have indicated that consumer data rules will likely be developed and refined over time by the release of a series of versions but there is no detail on what an industry consultation process entails, in particular, the amount of time a consultation would be open and the notice period prior to a change coming into effect.Additionally, industry expects meaningful consultation before the release of any versions, no matter how narrow the intended change.It is also unclear what circumstances would be considered an “emergency” justifying the ACCC’s use of its power to make rules without consultation  | Request clarify in the legislation or a requirement for the rules to set out the ACCC’s consultation process and criteria / circumstances for declaring an “emergency” to make rules without consultation. |
| Division 4—External dispute resolution | Refers to the ACCC recognising external dispute scheme  | Significant concerns around how the dispute resolution framework will apply in energy, which need to be resolved prior to designating the sector and setting a commencement date.  | Key design issue to resolve for energy sector.  |
| **56GH Review of Framework** | A review must be completed and given to the Minister in the form of a written report of the review, before 1 January 2023 | Unclear at this stage whether this timeframe is appropriate or not. | Recommend keeping review date as defined by include triggers so the review could commence earlier, for example because of: (1) a material change in the competitive landscape; and/or (2) material issues with the effectiveness of the framework as petitioned by industry participants, etc.  |
| **Consent Framework** | Consent is not defined and generally not referred to in the legislation. Only reference is to “valid consent” | From a consumer perspective, important for CDR and sector-specific consent frameworks to be aligned but there is nothing specific in the legislation that acknowledges or provides a vehicle (either designation or rules) for dealing with consent.  | Recommend including in the legislation a provision acknowledging or providing a vehicle (either designation or rules) that deal with consent, including what consent is required, how it must be recorded and that it may differ by consumer type/category. |

**Attachment 2:** **Origin’s comments on HoustonKemp’s Final Report**

**Context and general comments on HoustonKemp’s Final Report**

There have been numerous Government and Industry Reviews into data availability with specific emphasis on increasing third party and consumer access to data. This includes consultations through the Productivity Commission (PC) Inquiry, Open Banking Review, Australian Competition and Consumer Commission (ACCC) Retail Electricity Pricing Inquiry as well as an Australian Energy Market Commission (AEMC) review into delivering affordability.

The Commonwealth Department of Environment and Energy engaged HoustonKemp to respond to these reviews and to identify means in which third parties could more readily access data[[1]](#footnote-2). The review started analysing the impediments (i.e. consent and verification) to third parties accessing customer data at an energy only level, with HoustonKemp releasing a Draft Report for comment in February 2018[[2]](#footnote-3). This Draft Report quickly became redundant as the Treasurer committed the energy sector to the Open Banking CDR framework in May 2018.

The decision to commit the energy sector to the Open Banking CDR framework resulted in a considerable shift in focus for HoustonKemp to move away from the impediments to data availability to then recommending the data sets and data holders that should be designated under a CDR framework. HoustonKemp released an *Open consumer energy data, Applying a Consumer Data Right to the energy sector Final Report in June 2018* (HoustonKemp Final Report) recommending designated Data Holders and data sets[[3]](#footnote-4).

Origin feels that a sub-optimal solution would be implemented in the energy sector if the HoustonKemp Final Report recommendations are accepted without further analysis. The Report lacks any consideration of options, provides very limited technical analysis of the issues faced by the energy industry in implementing the CDR framework and contains many technical and practical errors (including, for example, the proposed application to metering data without capturing corresponding NMIs, which renders the data useless from a customer’s perspective). Our concerns with the HoutsonKemp Report are set out in the table below.

**Origin’s Preferred Model (as presented through the Australian Energy Council submission)**

Origin’s preferred model, which is consistent with the Australian Energy Council’s (AEC) position, is set out below. We believe AEMO’s current decentralised model – with existing distribution and retailers utilising AEMO’s e-hub – could provide a timely and cost effective path to market implementation:



Below is a high-level overview of one way the process for obtaining consumer data could operate.

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| **Box 3: Potential Process for Obtaining Consumer Data (simplified explanation):**1. Third party seeks and obtains accreditation from ACCC.
2. Customer/Agent verifies and obtains consent from the customer. This is as per consent requirements.
3. Customer/Agent makes request for data through an AEMO’s e-hub. Accredited third parties could be allocated market participant identifiers and provided access to the energy markets ehub framework.
4. AEMO’s e-hub ‘pings’ each of the relevant parties’ databases to request the data. The Data Holder role, for NMI meter data and standing data is held principally by energy retailers, but could also include aggregators, meter data providers (MDP) or network operators. This could be through the transmission of Shared Market Protocols (SMP) transactions. SMP transactions allow a request and response to be created with known (and agreed) formats and data sets.
5. Third party/customers receive the requested data.
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Origin supports the use of AEMO’s eHub as a means for enabling and facilitating customer and third parties to access the data that is transacted through the eHub. The Shared Market Protocol (SMP) is an existing protocol used in the eHub which:

* sorts and directs data requests to the relevant market participants
* retrieves and translates data from different market participants
* operates in ‘real time’ through a single back-end interface
* includes a technical accreditation framework (managed by AEMO) allowing third party access.

Drawing on existing systems architecture and data flows by extending the SMP/ eHub will be the most effective way of achieving the CDR and consumer outcomes that were recommended in the Finkel Review, ACCC *Retail Electricity Pricing Inquiry* *Preliminary Report* and most recently the AEMC’s 2018 *Retail Energy Competition Review*.

Set out below are some comments on the proposed HoustonKemp framework and the recommendations contained in their Final Report which was presented to the COAG Energy Council.

| **Issue** | **HoustonKemp Final Report**  | **Origin’s Comments** |
| --- | --- | --- |
| *Data Holder/Provider*  | AEMO be designated at the CDR data provider for electricity metering and NMI standing Data in the NEM (*Recommendation 11*). [[4]](#footnote-5)ACCC to examine and designate a data provider for consumer gas market data, retail product data and electricity metering data outside the NEM. No later than 12 months prior to the datasets being subject to the CDR *(Recommendation 12).* | Origin supports the electricity industry maintaining the same responsible parties for data delivery as per the existing AEMO Metering Data Provision Procedures, being retailers, meter data providers or distributors. AEMO’s role would be as a facilitator or agent rather than a data holder. This is discussed further above in Origin’s preferred model.It is Origin’s view that AEMO has a technical operational role in the electricity industry – they do not currently deal with nor provide services directly to customers. We not believe that AEMO has a role in developing customer protection frameworks for data access in the energy sector nor providing services directly to customers. A further issue not adequately addressed in the Final Report is the fact that AEMO, if designated as a data holder, would need to keep records up to date to ensure any information provided is relevant to the customer. Customers churn, change details and account details every day and the ability of retailers to just transfer this data to AEMO on an instantaneous basis is significantly complex. There would always be a risk that a consumer data request could come in that captured slightly out of date data, which could result in a consumer receiving consumption data for a property that is not actually their consumption. This could trigger a privacy law breach. Origin believes that the most practical way to avoid this mismatch of NMI meter data and standing data is for energy retailers or relevant party to provide that information directly to AEMO, who would pass it onto the requesting party. With the necessary information, energy retailers can verify a consumer’s data request by validating they are who they say they are and they resided at a given residence for the defined period. AEMO, who can validate what retailer was financially responsible for a set NMI can direct a data request to the relevant retailers – however many are applicable for the defined data request period. Each retailer can undertake their own validations and then provide AEMO with their proportion of the data set. AEMO can then provide the various data sets to the consumer (or their authorised representative).As discussed in Origin’s preferred option, the energy industry already contains an established data transmission platform in SMP that all market participants have as standard. Leveraging off this platform to support new forms of data requests is the most cost-effective mechanism to facilitate access by third parties.In summary, Origin believes AEMO role is more as facilitator/agent role should be given responsibilities for developing the technical standards for the data and transmission formats that will be shared or provided to third parties. This would need to be in conjunction with the already established Information Exchange Committee (IEC) which are tasked to develop technical and practical standards for B2B transactions of data. The IEC is supported by B2B Working Groups. Origin also supports a holistic review to the decision-making process for determining the designation of other data sets (ie HoustonKemp recommend electricity metering data outside the NEM etc) and data holders. A holistic review will assist in ensuring an optimal CDR framework is implemented in the energy sector. |
| *Designated Data* | Treasurer immediately designate electricity metering data and NMI standing data as attracting a CDR Right in the NMI from December 2019 *(Recommendation 3)*Treasurer designate retail gas metering data, retail pricing data and electricity metering data outside the NEM to be made effective no later than December 2020 *(Recommendation 4)* | Origin supports electricity meter data and NMI Standing Data forming part of the data sets that will be designated under the CDR. We are however yet to see analysis that gas meter data, meter data outside the NEM and product data are valued data sets such that significant investments should be undertaken to make this data available. Origin specifically questions meter data outside the NEM. Reference has been made by HoustonKemp to provide Northern Territory and Western Australia electricity metering data. There has been no indication that electricity competition will be introduced in these state in the near future and customers are unable to choose a retailer. Origin thus questions whether this data is even required by these customers.We further believe that the obligation to provide data should only be extended to the information that is in digital form and not include any additional information collated as part of a verification process or value add data that an entity has developed about a customer. There are strong incentives on companies to collect data as a means of understanding their business to offer products and services that consumers require and value. Requiring data, such as this to be shared, would take away from product development and innovation. |
| *Accreditation* *Process* | The ACCC recognise market participants in the NEM that express an interest in accessing consumer energy data subject to the CDR Right, as an accredited party *(Recommendation 2)* | A standardised accreditation process will reduce the cost to potential data recipients of obtaining data and improve the timeliness of data being provided to customers and third parties. Origin does not believe that AEMO has any role in an accreditation framework given their technical and operational role in the market. The accreditation process should fall within the ACCC’s responsibilities. Origin supports the ACCC maintaining a Public Register of parties that have been accredited. This will provide transparency to the market on the parties that are seeking to access data.Origin does not support HoustonKemp’s Final Report recommendation that all market participants should automatically be provided with accreditation under the scheme[[5]](#footnote-6). HoustonKemp’s reasoning is that it is they view that AEMO’s process for registration of energy market participants is likely to be the same as the ACCC’s accreditation process.[[6]](#footnote-7) Origin has a number of concerns with this view:* The accreditation process is not known and thus it is unclear how an inference could be drawn that the CDR accreditation process would be the same as AEMO’s market registration process;
* AEMO’s registration is related to market operation, financial and system capabilities. There is no link to customer data nor customer information.
* Market participants may be registered, however they cannot undertake activities until they have proven to Regulators and others that they have the systems, people and processes to satisfy the requirements. For example, a retailer requires a retail authorisation, an embedded network requires a retail exemption.

It is Origin’s view that businesses should be required to demonstrate that they have the skills and systems to deal with the requests in the manner required by the CDR framework and accept data in the required format. CDR Data is potentially sensitive data and we believe that all parties should demonstrate they have the capabilities to fulfil these requirements.Further, Origin believes that third parties should not be granted accreditation for an open period. Third parties should be required to demonstrate their credentials on a regular basis to ensure that data is being accessed and utilised as intended. This is similar to retail licences in some states that are reviewed after a certain time period. While we should a robust accreditation framework in the energy sector, we are also cognisant that the process cannot be too onerous or costly that it provides a barrier to entry for third parties. |
| *Customer Authorisation and consent*  | CDR Rules should not require data holders to verify that an accredited third party seeking data has obtained explicit informed consent from consumers at the time a data request is made. Verification of consent should be part of the accreditation compliance and auditing functions of the ACCC *(Recommendation 7)* | Origin is not of the view that HoustonKemp is able to make such a recommendation. Consent and verification will depend on the data holder and privacy provisions that need to be satisfied. Liability issues stem from consent and verification. Origin further believes that a customer’s authorisation to a third party to access data should be for a set period of time (ie 6 months) and after that time, the customer would need to resubmit any required documentation to give the authorisation. This will ensure details remain current and relevant to the application. The authorisation, when developed, should allow for customers to revoke or change their authorisation at any time.An industry solution will need to be developed to the situation whereby an account has joint authorisation. It is recommended that the authorisation to access data should reflect that of the set up of the account. If the account has been established such that two parties need to provide consent to adjust an account, then joint authorisation may be required to provide authorisation for a third party to access the account. If the account has two parties, but with only one primary account holder then only one authorisation would be needed. The various types of account set ups will need to be reviewed to ensure that there are clear rules in this respect. |
| *Dispute Resolution*  | COAG Energy Council should agree in principle to using existing jurisdictional energy external dispute resolution schemes for managing consumer complaints arising from the establishment of the CDR in the energy sector *(Recommendation 8).*  | Origin has concerns with HoustonKemp’s recommendation that existing jurisdictional energy external dispute resolution schemes should be utilised for CDR complaints, particularly given the recommendation assumes that no changes would be required to the scheme. Origin’s questions include: Will accredited parties be required to become an Ombudsman scheme member? Who funds new participants?Current Energy Ombudsman Scheme members are energy retailers and distributors. Energy retailers and distributors pay the costs of operating such a scheme. AEMO and other regulators are not part of such schemes.Origin believes that if data complaints are to be dealt with by Jurisdictional Energy Ombudsman Schemes, the scheme would need to be extended to accredited Third Parties. This is to ensure:1. participation, enforcement of decisions and ensure accredited third party customers receive the benefits of such a scheme.  We believe Without a mandatory membership of the Scheme, response ‘opt in’ levels will be low (or zero). This has been the case in both New South Wales and South Australia where, for example, embedded network membership has been optional.
2. They become financial members of the Ombudsman Schemes.  Non-memberships has the potential to lead to cross-subsidy issues where members will need to cover the cost of investigations for issues related to non-members. The non-membership issue is a concern for Origin when HoustonKemp suggest that AEMO be the data provider and recommends customers continue to use the Ombudsman services. HoustonKemp’s recommendation fails to recognise that AEMO is not even a member of Ombudsman Schemes.

**Scope of Ombudsman Scheme** The scope of Energy Ombudsman scheme are disputes about certain matters between customers and retailers or distributors. AEMO is not a member of the scheme and thus HoustonKemp’s Final Report recommendation to include AEMO would require jurisdictional agreement and cost apportioned with AEMO. |
| *Implementation Timing* | Electricity meter data and NMI standing data – December 2019 (*Recommendation 3)*Gas meter data, retail product data and electricity metering data outside the NEM – no later than December 2020 *(Recommendation 4)* | Complexities of Rules, systems and processes will guide the timing required to implement the CDR framework in the energy sector. It will be important that market participants are given a reasonable time to adjust and upgrade their systems to meet the new data sharing framework. To optimise the capacity of market participants to respond to the rule change, the ACCC ought to publish its rules and standards at least twelve months before the rules come into effect.  |

1. HoustonKemp, Facilitating access to consumers’ energy data – Workshop information paper, 13 November 2018. [↑](#footnote-ref-2)
2. HoustonKemp, Facilitating access to consumers’ energy data – A draft report for the Department of Environment and Energy, February 2018. [↑](#footnote-ref-3)
3. HoustonKemp, Open consumer energy data, Applying a Consumer Data Right to the energy sector, June 2018. [↑](#footnote-ref-4)
4. HoustonKemp, Open Consumer Energy Data – Applying a Consumer Data Right to the Energy Sector, June 2018, piv. [↑](#footnote-ref-5)
5. HoustonKemp, Open Consumer Energy Data – Applying a Consumer Data Right to the Energy Sector, June 2018, p9 [↑](#footnote-ref-6)
6. lbid [↑](#footnote-ref-7)