

EXPOSURE DRAFT



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Competition and Consumer Amendment (Consumer Data Right) Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2021

David Hurley
Governor-General

By His Excellency's Command

Jane Hume [DRAFT ONLY—NOT FOR SIGNATURE]
Minister for Superannuation, Financial Services and the Digital Economy

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules	1
	Schedule 1—Amendments	2
	<i>Competition and Consumer Regulations 2010</i>	<i>2</i>

EXPOSURE DRAFT

1 Name

This instrument is the *Competition and Consumer Amendment (Consumer Data Right) Regulations 2021*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Competition and Consumer Act 2010*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

EXPOSURE DRAFT

Schedule 1—Amendments

Competition and Consumer Regulations 2010

1 Before Part 2B

Insert:

Part 2BA—Consumer data right

28RA Application of privacy safeguards in the energy sector

- (1) This regulation has effect for the purposes of section 56GE of the Act.
- (2) In this regulation:

AEMO means Australian Energy Market Operator Limited (ACN 072 010 327).

CDR data held by AEMO means CDR data of which AEMO is a data holder because of the energy sector designation.

energy sector designation means the *Consumer Data Right (Energy Sector) Designation 2020*.

Note: If that instrument is repealed and replaced, see section 10 of the *Acts Interpretation Act 1901* as applying because of paragraph 13(1)(a) of the *Legislation Act 2003*.

retailer has the same meaning as in the energy sector designation.

- (3) AEMO is exempt:
 - (a) in relation to CDR data held by AEMO, from these provisions of the Act:
 - (i) section 56ED (Privacy safeguard 1—open and transparent management of CDR data);
 - (ii) section 56EN (Privacy safeguard 11—quality of CDR data);
 - (iii) section 56EP (Privacy safeguard 13—correction of CDR data); and
 - (b) in relation to CDR data held by AEMO that AEMO discloses to a retailer as required or permitted by the Act, from section 56EM (Privacy safeguard 10—notifying of the disclosure of CDR data) of the Act.
- (4) The following provisions apply in relation to retailers as if varied as set out in subregulation (5):
 - (a) section 56ED (Privacy safeguard 1—open and transparent management of CDR data) of the Act;
 - (b) section 56EM (Privacy safeguard 10—notifying of the disclosure of CDR data) of the Act;
 - (c) section 56EP (Privacy safeguard 13—correction of CDR data), except paragraph 56EP(3)(a) of the Act;
 - (d) any other provision (except subsection 56BD(3) of the Act) covered by paragraph 56GE(1)(a) or (b) of the Act, to the extent that the other provision affects, or is affected by, the operation of a provision referred to in paragraph (a), (b) or (c) of this subregulation.

EXPOSURE DRAFT

Amendments **Schedule 1**

- (5) The provisions are varied so that they apply, in relation to CDR data held by AEMO that AEMO has disclosed to a retailer as required or permitted by the Act, in the same way as they apply to CDR data of which the retailer is a data holder because of the energy sector designation.