



Australian Government
The Treasury



Consumer
Data Right

Consumer Data Right in the energy sector

Proposals for further consultation

August 2021

Consultation Paper



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Consultation process

Request for feedback and comments

Interested parties are invited to comment on the issues raised in this paper by 13 September 2021.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses sent via email in a Word or RTF format. An additional PDF version may also be submitted.

Publication of submissions and confidentiality

All information (including name and address details) contained in formal submissions will be made available to the public on the Australian Treasury website, unless you indicate that you would like all or part of your submission to remain confidential. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain confidential should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

Closing date for submissions: 13 September 2021

Submissions and enquiries can be directed to data@treasury.gov.au

Consumer Data Right in the energy sector: *Proposals for further consultation*

Introduction

The Consumer Data Right (CDR) is an economy-wide regime which gives consumers access to and control over their data, and the ability to obtain products and services from accredited persons using CDR data.

The exposure draft of the *Competition and Consumer (Consumer Data Right) Amendment Rules (No. 2) 2021* includes amendments that extend the CDR regime to the energy sector and other minor amendments (relevant amendments are shown in red mark-up).

Treasury is undertaking consultation on a number of discrete issues to incorporate stakeholder views into the finalised rules.

We are also seeking views on particular issues relating to regulatory impacts and costs of implementing the CDR in energy taking into account the settled policy position of the application the peer-to-peer model that was announced on [30 April 2021](#).

Purpose

The following measures have been proposed in the exposure draft rules:

- Proposal 1: all NEM retail customers are eligible CDR consumers, irrespective of size
 - The rules require data holders to share energy CDR data in relation to all retail customers in the National Electricity Market (NEM), irrespective of their level of consumption.¹
- Proposal 2: process for responding to correction requests for AEMO-held CDR data
 - The rules provide a process for the correction of AEMO-held CDR data that utilises existing data correction processes in the National Electricity Rules for NMI standing data and metering data, and requires retailers to initiate correction of distributed energy resources (DER) register data with the relevant distributor.
- Proposal 3: staged application of rules to the energy sector
 - The rules provide a staged implementation of CDR obligations in the energy sector in two tranches.

Treasury also seeks submissions on the regulatory impact and costs of the CDR in energy as proposed to be implemented in the exposure draft rules and regulations.

¹ A retail customer is in the NEM when there is a retailer that is financially responsible for the customer in the wholesale market, so customers that purchase from an embedded network are not eligible consumers, unless they have chosen to go 'on market' in the NEM.

Proposal 1: All NEM retail customers are eligible CDR consumers, irrespective of size

Relevant rules: Rule 1.10B and Schedule 4, Part 2

In order to be able to share energy CDR data, a CDR consumer must be an 'eligible' CDR consumer by meeting several eligibility criteria as set out in the rules.

The rules enable retail customers in the energy sector to share their energy CDR data, irrespective of their size. To enable this, the rules do not specify energy sector-specific eligibility requirements relating to an electricity consumer's level of consumption, nor do the rules amend which data sets are required to be shared based on the consumption level of the consumer. The rules ensure that all retail customers in the NEM are able to benefit from CDR data sharing in the energy sector, irrespective of the size of the customer or existing data access arrangements.

Treasury seeks feedback on whether the proposed inclusion of all customers is appropriate and, if not, detailed reasoning (including supporting costings) for alternative approaches (e.g. the use of a consumption threshold to delineate between eligible and non-eligible CDR consumers).

Proposal 2: Responding to correction requests for AEMO held CDR data

Relevant rules: Schedule 4, Part 6

Relevant documents: exposure draft regulations

AEMO's role in CDR is unique due to the nature of AEMO as an organisation and its role in the Australian energy market. AEMO does not generate the data that it holds in the same way that a bank or a retailer does; they instead act as a central repository of data that they receive from a myriad of third parties. AEMO has developed detailed procedures that govern the integrity of the data that it holds, and correction of this data is undertaken by market participants under procedures made under the National Energy Rules (**NER**). In these circumstances, several Privacy Safeguards in the *Competition and Consumer Act 2010* that apply to data holders are not appropriate for application to AEMO. These changes are outlined in the Exposure Draft Explanatory Materials for the draft regulations.

The draft regulations clarify the operation of these privacy safeguards with respect to AEMO and change their application in the energy sector by removing requirements that should not apply to AEMO, and ensuring that consumer-facing requirements are allocated to retailers.

As outlined in Schedule 2 of the Exposure Draft Explanatory Materials, the draft rules complement these regulations, by specifying the steps that a retailer must take in response to a correction request from a CDR consumer for AEMO held data. Due to the unique nature of the existing data correction process in the energy sector and AEMO's proposed role in CDR, the proposed rules are included in the Schedule to the CDR rules that contains provisions specific to the energy sector.

The Rules require the retailer to initiate the relevant correction process under the NER for NMI standing data or metering data and refer any correction request to the relevant electricity distributor to action for DER register data. In addition to initiating the relevant correction request, the retailer is required to provide the CDR consumer with an adequate level of information to

explain what the retailer has done in response to the correction request. If it was not possible or appropriate for the retailer to take such actions, the retailer must explain why it was not possible or appropriate and outline the complaint mechanisms available to the CDR consumer.

Proposal 3: Staged application of rules to the energy sector

Relevant rules: Schedule 4, Part 8

Consistent with the implementation of CDR in the banking sector, the draft rules provide for a staged application of the rules to the energy sector. The proposed approach, summarised at Table 1, aims to ensure that CDR obligations first commence with participants that will provide the greatest coverage to enable consumers to benefit from CDR data sharing.

Table 1: proposed staged approach and timetable for CDR in energy implementation

Tranche	Proposed commencement date	Participants	Data that will be able to be shared
Tranche 1	1 October 2022	<ul style="list-style-type: none"> Australian Energy Regulator AEMO Three largest retailers: Origin Energy, AGL Energy and EnergyAustralia 	Product reference data for energy plans in the National Electricity Market (excluding Victoria) Consumer data held by the three largest retailers Consumer data held by AEMO relating to customers of the three largest retailers
	Date to be set by notifiable instrument	<ul style="list-style-type: none"> Victorian Department of Environment, Land, Water and Planning (DELWP)* 	Product reference data for energy plans in Victoria
Tranche 2	1 October 2023	All other retailers	Consumer data held by all other retailers Consumer data held by AEMO relating to customers of all other retailers

**Subject to agreement with the Victorian Government.*

Treasury seeks views on the proposed staged implementation approach and commencement dates for the two tranches.

Regulatory impact and costs

Relevant documents: exposure draft rules; exposure draft regulations

In accordance with the Office of Best Practice Regulation's requirements, Treasury seeks stakeholder views on the regulatory impact and costs associated with CDR in energy. In particular, we seek views regarding the readiness of your business to implement the peer-to-peer data access model and the proposed CDR obligations required by the regulations, as per the consultation questions below.

Consultation questions

1. Do you consider the proposed inclusion of all NEM retail customers, for all data sets, is appropriate? Are there alternative eligibility requirements that you consider would be more appropriate? If yes, please provide detailed reasoning as to why, including supporting information in relation to compliance costs if relevant.
2. Do you consider the proposed mechanisms for correction of AEMO-held data provide an effective way to ensure data accuracy? Are there opportunities to improve the proposed mechanism, in a manner that is compatible with current National Electricity Market processes?
3. Does the staged implementation approach provide sufficient time to implement the CDR while meeting the intent to facilitate consumer access to their data?
4. Are you able, at this point, to identify your potential costs and timing to be ready to implement the CDR, and the implication these have for your business?
5. Are you able to identify any requirements of the draft rules that will make compliance with CDR more challenging?