



Consumer Data Right Division
Treasury
Langton Cres
Parkes ACT 2600

13 September 2021

via email: data@treasury.gov.au

Consultation on Consumer Data Right (CDR) rules amendments (version 4)

We welcome the opportunity to provide input into the Treasury's consultation on CDR in the energy sector, in particular the proposals for further consultation.

Expanding the CDR into other sectors such as energy is a welcomed move, one that will help unlock the value of data in this sector to promote customer service, competitiveness and innovation. The consultation paper outlines three proposals, to which we have provided our observations and recommendations for each below.

Proposal 1: all National Electricity Market (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 NEM, irrespective of their level of consumption.

The timing and scope for onboarding Commercial & Industrial (C&I) customers and retailers should be considered through further investigation and consultation with market participants.

The structure and nature of the C&I market is fundamentally different to that of the residential mass market (MM) and Small to Medium Enterprise (SME) market. We note that the current amendments and the data designation instrument for the energy sector do not clearly articulate the scope in terms of data sets applicable for C&I retailers and customers. It is important to understand the cost-benefit value use cases that CDR is intended to focus on, in consultation with the C&I market participants. Customer switching based on product plans or tariffs may not be the most valuable use case or application of CDR in the C&I market. We enlist some considerations below.

- There are limited standardised products offered by energy retailers for C&I customers, unlike residential MM and SME customers. This creates complexity in comparison of like-for-like products between energy retailers or tariff information.
- Generally, C&I customers have individual contracts which provide bespoke pricing per customer based on a number of factors (e.g. forecast load, type of business / usage profile, location, seasonality, supply capacity etc.) that differ from what may be

PricewaterhouseCoopers, ABN 52 780 433 757

One International Towers Sydney, Watermans Quay, Barangaroo NSW 2000, GPO BOX 2650 Sydney NSW 2001

T: +61 2 8266 0000, www.pwc.com.au

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applicable for MM and SME customers. There is limited incentive or fundamental need for switching based on any standardised benchmarks of pricing and tariff.

- There is no single benchmark for C&I load, which is likely to vary in size from >100 MWh/year to thousands of MWh/year depending on the region, industry and type of large scale customer, and the business they are in. There is less variability in load for MM and SME customers.
- The regulatory oversight profile for C&I customers differ to that of MM and SME customers. In addition, while almost all energy retailers in Australia provide services to residential MM and SME customers, the number that provide services to C&I customers is fewer.

In light of the above, the realisation of commercial benefits for C&I customers changing product plans or energy retailers is different compared to MM and SME customers. This is because the C&I customer's access to the "best" price depends on the size of the customer, their consumption levels and their strategic approach to power consumption and fuel mix.

We acknowledge that there may be other benefits of extending the scope of CDR to C&I customers. However, the use cases that drive adoption and innovation in the market should be further considered. Some emerging examples include acceleration of Demand Response trials, Community VPPs and innovative ancillary services that some C&I retailers already are attempting to venture into. Notwithstanding this, the specific C&I data sets that will consequently be in scope for CDR (which differ to those for MM and SME customers) should be defined to establish clear and well understood boundaries in the CDR rules.

Considering the above, we put forward the following for consideration as next steps:

1. Extend industry consultation on scope and value case for C&I retailers and customers. This should include a strategic view of use cases and innovation drivers for the market.
2. Clearly defined data sets should be documented in the designation instrument of the energy sector¹ to define the scope of the legislation as it specifically relates to C&I customers.
3. Based on the outcomes of the above, the timing of applicability of legislation for C&I customers should be considered, including options for a phased implementation approach.

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.

Obligations for the timely and accurate correction of AEMO held data should be defined in the CDR rules and not left open to interpretation and enforcement as it relates to parties expected to be responsible for corrections of data.

¹ <https://www.legislation.gov.au/Details/F2020L00833>

We understand the rationale behind establishing a limited scope of CDR *privacy safeguards* obligations on AEMO as a data holder, as AEMO does not generate the data it holds in the same way that a bank or an energy retailer does. We also acknowledge that existing legislation in NER supports long-standing protocols to ensure that the data that AEMO holds is of high integrity. We therefore understand the rationale that correction of data responsibilities should lie with the original source of data, which may not necessarily be AEMO, even where AEMO is the designated data holder under CDR.

While the rationale and release of obligations from AEMO appears consistent with the structure of the NEM, we suggest there may be merit in clearly referencing within CDR rules the obligations on source market participants for corrections to each data type where AEMO has been designated as data holder. This could include:

- requirements for originators of data sources to make timely and accurate changes in response to requests from Authorised Data Recipients and consumers, and
- regulatory consequences for delayed or inaccurate changes to data.

We believe this will also support timely and accurate metering data and NMI standing data.

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.

A phased approach to implementation is prudent, and further consideration should be given to spread out retailers beyond the proposed two tranches.

The implementation of Open Banking rules in Australia have demonstrated that a phased approach to the implementation of CDR rules is prudent. Despite the time accorded there have been significant delays and exemptions granted to banking participants. Given the varying customer and market participant types operating in the energy markets, we believe that there may be merit in further disaggregating application tranches beyond two stages.

We note that, based on lessons learned from Open Banking, the minimum time to adequately embed the necessary end-to-end people, process and technology changes is at least 12-15 months, and that the time remaining for the Australian Energy Regulator (AER), Department of Environment, Land, Water and Planning (DELWP) and the three largest retailers to become fully compliant is approximately 12 months. Therefore, there is an inherent risk that market participants may not have completed all necessary changes to support compliance from the proposed Tranche 1 commencement date. CDR readiness may be more achievable if the scope of Tranche 1 is limited to residential mass market customers only, with C&I and SME customer data to be shared at a later date.

We further note that the proposed commencement date and applicability for Tranche 2 is 1 October 2023 and “All other retailers” respectively. We draw attention to the varying size and access to capital of energy retailers that meet this criteria. For example this would both include retailers with approximately 1 million customers (Tier 2) and retailers with less than 1000 customers (Tier 3). It is therefore anticipated that the proportionate cost of implementing

CDR-readiness for Tier 3 retailers will be greater compared to Tier 2 retailers, who already have a head start with more mature data governance strategies and technology tools in place. Consideration should be given to limiting the applicability of Tranche 2 from “All other retailers” to retailers exceeding a defined threshold of customers, with retailers falling below this threshold to come into scope at a later date.

We note that all participants have the option of implementing CDR (i.e. becoming a data holder or Authorised Data Recipient) at their organisation from 1 October 2022; we do not propose any changes to this approach.

Finally, we note that timing for sharing of customer data related to Life Support applicability, NMI, DER and Meter Data has not been explicitly defined in the proposed release timeline. We recommend that, in consultation with market participants including AEMO, consideration be given to communicating the expected date (if any) by which these data sets will be shared under the CDR framework.

With regard to the regulatory impact and costs of the CDR in energy as proposed to be implemented in the exposure draft rules and regulations, we believe that this information is best provided by market participants and impacted parties.

Our market engagement tells us that not many retailers would have completed CDR impact assessment as it stands today and therefore, may require more time to provide informed input to this question.

Notwithstanding this, we also draw attention to the following:

1. There are currently a number of investments being made by market participants towards various regulatory reforms that are either currently underway (or planned) which will occur alongside CDR in the energy sector. These include the introduction of Wholesale Demand Response, Customer Switching, 5-Minute-Settlements (5MS) and Global Settlements (GS). 5MS and GS are currently the predominant regulatory change focus for most energy market participants and will continue to be so at least until Q3 2021. The implementation of further regulatory reforms in FY22 and FY23 may place the proposed timeline for effective implementation of all regulatory reforms, including CDR, at risk.
2. For participants to see and accept the benefits of CDR, conscious effort must be made to evidence the urgency as well as collective direction towards competition and innovation. The strategic intent of CDR has always been directed at consumers. It is important that Treasury enables customer engagement on priority to ensure the very audience the reform is expected to benefit from, have a say and opportunity to deliberate on some strategic value-driven use cases if they would like to. The potential approaches to consider include joint customer councils or working groups on cross-sector/in-sector use cases, substantial CDR public campaigns to drive demand and adoption and more.

As noted in the Strategic Assessment Consultation, we also recommend the broader CDR strategy considers a technical ecosystem that supports interoperable sharing of consumer data across different industry sectors, and to objectively measure to what extent the CDR is delivering the intended benefits over its implementation. This will enable the CDR regime to flex and adapt



to changing data needs in the future, particularly as we continue to see convergence of products and services across traditional industries, thanks in part to the digital economy.

We would like to take this opportunity to thank the Treasury for the opportunity to contribute to the consultation process. Should you require any further detail on our submission, please reach out to **Jon Chadwick** on +61 424 299 056 or **Matthew Hunt** on +61 414 562 320.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jon Chadwick', written in a cursive style.

Jon Chadwick
PwC Partner

A handwritten signature in black ink, appearing to read 'Matthew Hunt', written in a cursive style.

Matthew Hunt
PwC Partner