

20 May 2022



Consumer Data Right Division
Treasury
Langton Crescent
PARKES ACT 2600

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Dear Sir/Madam,

Statutory Review of the Consumer Data Right (CDR) – Issues Paper

Origin Energy appreciates the opportunity to provide comment on the Statutory Review of the Consumer Data Right (the Review). The Review is required under s56H of the *Competition and Consumer Act 2010* (the Act) and considers whether the existing statutory framework supports the evolution of the CDR and is fit-for-purpose to realise the CDR's objectives. The CDR objectives are set out in Part IVD of the Act.

Origin believes that the objectives of the Act are significantly broad that policy makers and regulators have been able to encompass any sector or scenario for the sharing of consumer data to date. However, the broadness of the objectives has meant that decisions have not always taken into account other relevant objectives such as simplicity, consumer focussed nor that the benefits will outweigh the costs to industry and consumers.

These issues are discussed further below in response to the matters raised in the Issues Paper. We focus our comments on how the CDR legislative framework has been developed for the energy sector.

Question One

Are the objects of Part IVD of the Act fit-for-purpose and optimally aligned to facilitate economy-wide expansion of the CDR?

The objectives of the Act are broad and to date have been able to encompass any sector or scenario for the sharing of consumer data. However, the objectives are so broad that they do not necessarily consider vital framework development objectives such as simplicity, cost effectiveness as well as the ongoing need to ensure data security and protecting the privacy of consumer data.

Firstly, there are complexities emerging in both the development and management of data through the CDR framework. The complexities for the management of various levels of accreditation, the expansion of the framework to allow CDR data to be transferred between Accredited Data Recipient (ADRs) and the ability for data to be transferred out of the CDR ecosystem to non-accredited persons. Added complexities lead to ambiguities, increased compliance costs and a need to ensure that consumers understand to what they are consenting too. We are concerned that the framework is developing complex arrangements without a clear understanding of whether: 1) additional levels of functionality are required by consumers; or 2) whether the benefits outweigh the compliance costs of managing these obligations.

Secondly, there are limited requirements during the framework development stage to require cost benefits analyses to be conducted as to whether the costs outweigh the benefits. For example, the energy sector argued that large electricity consumers (consumers that are considered large customers in the energy sector) should be excluded from the framework given the complex and unique nature in which these customers are billed and managed. While Treasury requested costs at the last stage of consultation, industry was not provided with reasons or cost outcomes to show that extending CDR to this cohort would provide meaningful benefits to them. We believe that there should be greater consideration of costs and benefits as part of the framework development stage.

Finally, we feel that data security and privacy issues have not been afforded sufficient consideration as the framework has developed. For example, the inclusion in the CDR Rules that allows ADRs to transfer data outside the CDR ecosystem raises concerns. There are no technical standards for the transfer of data between ADRs - rather the format of the data transfer will be commercial agreements between the ADRs.

This appears to go against the development of the scheme framework where there are standards and guidelines to direct the flow of information between ADRs and data holders. Further, privacy concerns arise with the ability of ADRs to transfer the data outside of the CDR ecosystem. Once this data is transferred, the CDR consumer protections no longer apply to consumers.

We believe that the legislative framework needs to consider and prioritise cost benefits, data security, customer privacy rights and simplicity. The framework needs to give consumers confidence that their data is being managed in a secure manner and as intended. This will provide consumers with a positive user experience while also promoting effective competition within and across sectors.

Question Two

Do the existing assessment, designation, rule-making and standards-setting statutory requirements support future implementation of the CDR, including to government-held datasets?

The framework could be enhanced to provide a greater scoping of requirements during the assessment stage. The assessment stage of the process makes a number of assumptions and cost estimates without a clear understanding of: 1) the data requirements for the sector; or 2) how CDR will operate in the sector (ie primary and secondary data holders, centralised/decentralised operating framework or whether it applies to all consumers or a subset of consumers). A greater level of scoping would assist with cost estimates and ensure there are tangible benefits to consumers from extending the regime.

Question Three

Does the current operation of the legislative settings enable the development of CDR-powered products and services to benefit consumers?

The framework needs to remain consumer focussed and ensure that complexities of the framework do not deter from this objective. This is in terms of the level of consent consumers are providing and whether they understand the implications of consent. For example, the consent to allow others to access all data on an account (ie joint account provisions) and whether they are going to understand that allowing the transfer of data to an outside third party removes the consumer protection rights of the CDR scheme. We feel there needs to be a greater balance between increasing functionality for consumer choice and the complexities of managing and protecting consumer rights.

Further, any enhancement or amendments to data sharing frameworks should not consider that data can only be shared through the consumer data right regime. The framework needs to be sufficiently flexible to allow for competitive approaches and the development of innovative and value add products. Origin believes that it will be imperative that the framework does not preclude customers from directly contacting their individual retailer for data or other parties developing their own innovative solutions for customers to access data outside of this framework.

Question Four

Could the CDR legislative framework be revised to facilitate direct to consumer data sharing opportunities and address potential risks?

Consumers will need to have the system functionalities and capabilities to accept the volume of data in the format which is specified in the standards. There are usually system limits on the volume of data that can be sent and received at the one time from a business and if the consumer does not have the system capabilities, they may not be able to receive the data. For energy, we have concerns how consumers would be able to accept and comprehend metering data in the format described under the CDR Rules as well information provided through NMI discovery. For the energy sector, this would need to be investigated further.

It should be noted that the CDR regime is not the only way a consumer can access their data. Data sharing methods in the energy sector are continually evolving as technologies and metering capabilities advance. Customers are able to log into web portals to obtain energy consumption data and in-home energy displays can be installed and where real time usage can be viewed and customers can directly request information from energy companies. Further, energy companies are continually enhancing “apps” on handheld devices to view detailed information about price, usage and provide tips on reducing energy consumption on a “on demand” basis (depending on the metering type).

Question Five

Are further legislative changes required to support the policy aims of CDR and the delivery of its functions?

We encourage the inclusion of a provision that requires Treasury to conduct a post assessment review of costs to the relevant sector for implementing CDR. We view this as vital for both the further extension of the scheme to other sectors and the extension of the scheme within the sector.

Origin does not believe that there should be any further legislative changes at this time. We believe that sectors should take time to implement the current framework, take time to gather learnings from an operational sector, ensure data sharing models are operationally efficient and then gauge the extent to which additional services or functionality is required under the scheme. This is particularly important for energy given the framework is yet to be operational and it is still unclear whether we will encounter difficulties with capabilities or whether the data is useful for consumers. If high-cost sophisticated systems are built for low volumes of data transfers, it is customers ultimately paying a premium for an under-utilised right to access data.

Closing

Origin supports effective competition in the energy sector and thus the establishment of the CDR regime to assist consumers in using their own data to compare and select solutions and providers that match their current circumstances. However, any further amendments to the CDR legislative framework needs to be undertaken in a measured way to fully understand whether additional functionalities are required and there are tangible consumer benefits from extending the requirements.

If you have any questions regarding this submission, please contact Caroline Brumby in the first instance on (07) 3867 0863 or caroline.brumby@originenergy.com.au.

Yours sincerely



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