



EnergyAustralia

LIGHT THE WAY

21 May 2020

Mr. Scott Farrell
Inquiry into Future Directions for the Consumer Data Right
The Treasury
Langton Crescent
PARKES ACT 2600

By email: data@treasury.gov.au

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Dear Mr Farrell

Inquiry into Future Directions for the Consumer Data Right

EnergyAustralia welcomes the opportunity to provide a submission to the Inquiry into Future Directions for the Consumer Data Right (Inquiry). We recognise the importance of a future focussed inquiry being conducted now to provide guidance to sectors on the potential direction of the Consumer Data Right (CDR) in the mid to long term.

EnergyAustralia is one of Australia's largest energy companies with approximately 2.5 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own and operate a multi-billion-dollar energy generation portfolio across Australia, including coal, gas, and wind assets with control of over 4,500MW of generation in the National Electricity Market (NEM).

We recognise the role of the CDR in promoting the data economy and competition and innovation in participating sectors for the benefit of customers. Our submission focusses on providing views as an energy market participant operating in the NEM states/territories (NSW, Victoria, Queensland, ACT, SA and Tasmania) (NEM states). We specifically provide views on how the options outlined in the Inquiry paper relate to the energy sector and provide information on the energy sector and its likely direction.

In summary, the key points raised in our submission are as follows:

- Expanded options under the CDR should not duplicate existing or planned investment in the energy sector.
- By international standards, customer switching rates in the NEM states are high, particularly for Victoria. Expansions of the CDR should focus on how to improve the value of the switching energy plan process for customers and look at new services or information that could be provided by the CDR for the benefit of customers.
- The CDR's structure places central importance on Third Party accredited data recipients (ADRs). The commercial Third Party sector for energy has some issues which should be resolved to ensure the CDR is rolled out in a way that minimises risks to customers and does not undermine customer confidence in the CDR. In particular, these issues must be resolved before the CDR is expanded to any write access that would involve automatic energy plan switching by Third Parties. We call for the implementation of the Mandatory Code of Conduct for Third Parties

proposed by the ACCC in its 2017 Final Retail Electricity Pricing Inquiry report (ACCC REPI report) before this type of write access can be further explored.

- We support the further development of other types of write access which would allow porting data from a customer's existing retailer to a new retailer to streamline the sign-up process and offer convenience to customers. We also note several other opportunities and use cases for the future direction of the CDR.
- To enable the CDR to realise its national implementation to its fullest extent and maximise participation by ADRs, jurisdictional differences in energy regulation should be removed by regulatory harmonisation. This should be a high priority in the energy reform agenda.
- We also outline our views on the future scope of the CDR, and whether it should include customers in embedded networks, gas metering data, and large and multisite business customer data.
- Lastly, we consider whether data about energy related services should be included in the CDR in the future. This could include data about how much electricity a battery is storing which is measured by a smart inverter or battering management system and used to control when the battery is charged and discharged (when prices are low and high, respectively). This data is not visible or accessible today by industry parties or the Australian Energy Market Operator (AEMO). It may also not be accessible to the account holder who is buying electricity at the premises the battery is installed at. We suggest that this data and other "Behind the meter" data like it, should not be part of the CDR today. However, if it were made available to industry parties and AEMO in the future due to broader energy market reform, at that time, the CDR could consider including it in its scope.

If you would like more information on any of the matters discussed in this submission or would like to discuss it further, please contact Selena Liu (Selena.Liu@energyaustralia.com.au or 03 8628 1548).

Regards,

Melinda Green
Head of Customer Value Management

The Consumer Data Right and the Energy sector

Efficient investment in the energy sector

EnergyAustralia continues to support the application of the CDR to the energy sector in its current implementation. We recognise the significant benefits it will potentially provide to energy customers in the form of greater competition and innovation, and better price and quality outcomes for energy services.

The Inquiry paper outlines options and ideas which would significantly broaden the functionality of the CDR. We are open to many of these expanded options (as discussed below). However, we ask that the Inquiry consider whether investment in these expanded options will be efficient in terms of operation and use of energy services, and if they will therefore be in the long-term interests of customers. These efficiency considerations align with the three objectives set out in the relevant National Energy Laws.¹ We see these efficiency considerations as relevant to the expansion of the CDR in the energy sector and that they would be similarly relevant for other sectors.

When considering efficient investment in energy services, we note that regulatory reform, market developments, and the current implementation of the CDR, has and will already advance customer switching, competition and innovation. Any future expansion of the CDR should be designed to not duplicate the effect of what is in place or already planned to occur, otherwise it may present inefficient investment. Specifically:

- Government responses to the ACCC's 2017 Final Retail Electricity Pricing Inquiry report² (ACCC REPI report) and Independent Review into the electricity and gas retail markets in Victoria³ (Victorian review), have led to major reform of retail energy regulations. This reform is directed at protecting customers that are not engaged in switching (via regulated retail electricity prices for those customers); and improving retail energy plan information that is unclear and does not facilitate shopping around by customers. For example, the reform introduces reference pricing which compares unregulated price offers to the regulated price as a type of pricing benchmark). Many retailers, including EnergyAustralia, changed their retail energy plan offerings in 2019 in response to this reform. For example, removing conditional discounts from plan offers due to the complex advertising requirements.

As the market has only recently responded and customers are adjusting to new protections, the effect of these recent reforms is still unclear. Some reforms such as Ensuring Clear and Fair Contracts in Victoria are still being implemented.⁴

- Customer switching between energy retailers is comparatively high and the Third Party sales market is fairly mature. We discuss both these matters more below.
- We expect the *current* implementation of the CDR for the energy sector to already deliver significant enhancements to customer switching energy plans, competition and innovation.

In view of the above, the Inquiry should focus on expansions of the CDR which will result in additional benefit, above what is already in progress as customer switching is already high. The CDR should focus on benefits to competition and customers such as increasing the value received by the customer per switch by providing additional confidence or confirmation of their choice and providing greater convenience to customers. These two points are discussed more below.

¹ National Electricity Law, National Gas Law and National Energy Retail Law.

² Available here: <https://www.accc.gov.au/publications/restoring-electricity-affordability-australias-competitive-advantage>

³ Available here: https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/7415/0267/4425/Retail_Energy_Review_-_Final_Report.pdf

⁴ Available here: <https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/electricity-and-gas-retail-markets-review-implementation-2018/ensuring-contracts-are-clear-and-fair-2019>

Further, any expansion of the CDR should be subject to a cost-benefit analysis to ensure that the benefits to customers outweigh the cost of implementation, especially where CDR implementation is already high cost due to high levels of IT impact.

Customer switching

By international standards, customer switching rates for electricity in the NEM states is high. VaasaETT's last publicly available report on customer switching, "World Retailers energy market ranking 2012"⁵ reported that Victoria had world record levels of switching (out of 38 contestable markets analysed) of nearly 28%. Customer switching in Victoria over the last three years from 2017-2019 has remained consistently high with switching rates of 24.2%, 29.4%, and 27.3%, according to AEMO market churn data. According to VaasaETT's Levels of switching framework, switching rates higher than 20% for at least three years indicates a "Super hot" market (out of six ratings ranging from Dormant to Super hot). Super hot markets are:

"... the truly competitive markets where customers come first (or on a level par with other key business objectives) and complacency leads to major losses of customers. Prices may not be lower than in less active markets, nor may retailer image be higher, but a high emphasis is placed on the development of long-term lifestyle and added value services."⁶

As of 2012, Victoria was the only Super hot market, and based on recent data, it continues to be a Super hot market. Other NEM states are still relatively competitive and can be described as at least "Hot markets" (15-20% switching) across 2016-2019:

- NSW showing a churn rate between 16.9% to 20%
- SA – 16.4% and 20.5%, and
- Queensland – 16% and 22.5%.

EnergyAustralia contends that the issue is not a lack of switching by itself, but rather whether customer switching and the competition outcomes it should present, are delivering real value to customers.

This was explored in depth in the Victorian review which noted that the additional costs of competition that consumers are paying for (involving Third Party brokerage fees and other costs like marketing) "have not improved the reliability or accessibility of the product they are purchasing. Nor have the benefits of competition offset the additional costs incurred by consumers".⁷

The future design of the CDR can improve value provided to customers from the switching process, by:

- Ensuring barriers to becoming an ADR are low to facilitate new entry to the energy sector by data service or customer engagement platform providers. ADRs will be important in presenting that trusted Third Party which can simplify the complexity of energy plans for customers who find it difficult to engage in the retail energy market.
- Encouraging new types of entrants and new business models which will bring different and potentially more sophisticated data services to energy customers. However, this objective should not extend to favour new entrants in a way that undermines a level playing field for existing industry players.

⁵https://static1.squarespace.com/static/5607ee17e4b0afe8da3e56f7/t/58da5c4220099e0a03a9101d/1490705498401/World+Energy+Retail+Market+Rankings+2012+FINAL+SHORT+VERSION_compr.pdf

⁶https://static1.squarespace.com/static/5607ee17e4b0afe8da3e56f7/t/58da5c4220099e0a03a9101d/1490705498401/World+Energy+Retail+Market+Rankings+2012+FINAL+SHORT+VERSION_compr.pdf, pg. 11

⁷ https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.vic-engage.files/7415/0267/4425/Retail_Energy_Review_-_Final_Report.pdf pg. 24

- Ensuring value propositions evolve from the basic CDR use case of energy plan comparisons and switching, to services related to energy such as demand response (discussed more under Other opportunities for the CDR).

Lastly, to ensure the CDR delivers the greatest value, we note that some of the current issues regarding the commercial Third Party sector in the energy retail market should be addressed. We suggest how this can be achieved below.

Third Party sector

The benefits of the CDR are dependent on a well-functioning Third Party ADR market. In the energy sector we expect that the current Third Party industry will adopt the ADR role, either by themselves or in partnership with other providers. We also expect new ADR entrants with no energy sector experience. To maximise the potential of the CDR the following Third Party sector issues should be addressed in the near term so that they are not perpetuated under the CDR:

1. **Explicit informed consent compliance issues:** Under the National Energy Retail Law and the Victorian Energy Retail Code, energy retailers must obtain a customer's Explicit Informed Consent (EIC) before transferring customers from another retailer or entering into a market retail contract with the customer. This applies when a customer switches to a new energy plan with a new retailer. This obligation extends to Third Party agents acting on the retailer's behalf in signing up customers to energy plans.

The energy sector's current Third Party sales industry has had compliance issues regarding obtaining explicit informed consent. While some of these are due to the complexities of EIC obligations, they also have often involved serious breaches such as fraud. There have been a number of retailers that have been fined by regulators over the last few years due to non-compliance with EIC requirements by their Third Party partners. While we recognise retailers must manage the compliance of their Third Parties, the risks are more difficult to manage where those obligations are outside the retailer's direct control.

2. **Not acting in best interests of customers:** We share the concerns of the ACCC in its REPI report that Third Parties do not always make energy plan recommendations that are in the best interests of customers (e.g. due to payment of commissions); and that there is inadequate disclosure around the number of retailers compared in comparisons made by Third Parties.⁸ These concerns continue today.
3. **Incentives to increase switching:** The commercial Third Party market today is by its nature incentivised to increase customer switching to generate revenue (the typical Third Party business model is paid per customer sale). They are incentivised to "roll" customers through the market, when it may not deliver value to the customer. They also have resulted in increased retailer costs of acquisition since markets were opened to competition.⁹

The ACCC REPI report recommended the development of a Mandatory Code of Conduct for Third Parties (Mandatory Code). This Code would outline the process and steps that would ensure Third Parties obtain EIC in a way that satisfies the regulations. It would also address behaviours which are not aligned with the best interests of customers by requiring, for example, offers be recommended based on the price benefit to the consumer rather than the size of the commission received by the Third Party.

EnergyAustralia strongly supports the implementation of a Mandatory Code for Third Parties. We emphasise that this is fundamental to ensure that the CDR realises its full benefit to customers – and that ADRs promote competition in the retail energy market to deliver real value to customers. The Mandatory Code should be progressed as a high priority so that it is in place before the current implementation of the CDR. We also see that the Mandatory Code is essential for the CDR to be expanded to any write access which would allow an ADR to make decisions on behalf of a customer to automatically switch energy plans, discussed more below.

⁸ <https://www.accc.gov.au/media-release/iselect-in-court-for-alleged-misleading-conduct-and-claims-about-energy-plan-comparisons>

⁹ <https://www.accc.gov.au/media-release/iselect-in-court-for-alleged-misleading-conduct-and-claims-about-energy-plan-comparisons>, pg.

Write access

EnergyAustralia encourages the Inquiry to explore write access further. We would potentially support an extension of the CDR to write access, where the benefits outweigh the risks to customers.

At this time and until the issues with Third Parties (discussed above) are resolved, we see that there are risks to customers in extending write access to enable a Third Party to automatically switch a customer to a new plan with a new retailer. As above, we would need to see the Mandatory code in place and that it has been effective in changing Third Party behaviour so that it aligns with customers' interests, before we could support this type of write access. We also note that automatic switching would not be possible unless current EIC requirements are changed (as EIC needs to be obtained from a customer for each energy plan switch to a new retailer).

However, EnergyAustralia would support other types of CDR write access which do not involve automatic switching itself, but which make switching easier. Specifically, the CDR could provide material benefits in porting data from a customer's existing retailer to a new retailer to streamline the sign-up process and save both customers and retailer's time. An energy customer will have various types of data associated with their retail energy service which could be automatically migrated across to their new retailer, provided any associated risk is effectively managed. This will reduce paperwork for customers and make it more convenient for them to switch retailers. Some suggestions are:

- Life support requirements (which flag that energy should not be disconnected as there is life support equipment at a site)
- Concessions linked to an account
- Hardship or payment difficulty status
- Payment plan data – both for bill smoothing (budgeting) and payment difficulties purposes
- Preference for direct debit arrangements
- Preference/arrangements for e-bills/e-correspondence

Risks relating to more sensitive data such as information relating to life support, concessions, and hardship, will need to be carefully managed. For instance, where hardship or payment difficulties data is disclosed to an ADR operating across sectors, it increases the risk that an ADR may use the data in a discriminating way in recommendations about banking services or other services. This information should also not be available to any non-current or potential retailer to avoid it being used to avoid signing up those customers.

The CDR may need to be designed so that sensitive data is not shared with the ADR but can transfer only among retailers at the point the customer transfers to that retailer. It may also be necessary to regulate energy sensitive data so that it can only be used by an ADR for use within the energy category, and not by other CDR sectors.

There are less risks around the sharing of preferences (e.g. direct debit, e-bills). We consider migrating data about these preferences could be leveraged across retailers in the energy sector and across other sectors. For example, the preference for electronic correspondence for bank account statements could be "written" as a preference that applies to telecommunication and energy service bills. However, we note that there are current EIC requirements which apply in the energy sector for some arrangements e.g. EIC for amount and frequency of direct debits. These regulatory barriers would need to be removed to allow this type of write access.

As the above list of data would not have standardised format and content among retailers, the CDR could facilitate the gradual standardisation of that data, provided that the benefits of standardisation outweigh the costs (e.g. system re-design, data validation).

Write access where the eligible CDR consumer is not the customer

In the current implementation of the CDR for the energy sector, Treasury's Draft Energy Sector Designation Instrument¹⁰ (Draft Designation Instrument) is drafted broad enough to allow people other than the person buying the electricity (account holder) to have rights to disclose and authorise use of CDR data. This would include residents living at a premise who are not the account holder, or potentially anyone who is able to access basic information on a bill (NMI, current retailer and post code). EnergyAustralia does not support this "resident model", as it creates an unacceptably high risk of misuse of data where the account holder cannot consent to disclosure and use of their data. However, it also creates further risk in a context where the CDR is expanded to write access as it could allow residents to change CDR data. The use of data by "residents" in this way is specifically prohibited in the energy industry, so it should not be made possible via CDR. This model is at an early stage of consideration and we believe significant amendment or additional protections will be required to make it suitable.

Read access

The CDR rules for banking set out consumer consent requirements for the collection and use of CDR data by an ADR. These rules appropriately emphasise the need for specific consent for a specific disclosure and use. We see the potential of the CDR in standardising how digital consent for data use (and other activities) is obtained by service providers in different industries, potentially beyond CDR applications.

Energy industry regulation

For the CDR to be effectively rolled out nationally, and achieve maximum participation by ADRs, jurisdictional differences in energy regulation should be addressed.

The energy industry is highly regulated by industry-specific regulation. This regulation applies to the initial onboarding of energy customers and throughout the provision of an energy service e.g. billing, payment, supply disruptions, and disconnection. This regulation is also different depending on the jurisdiction.

In total, there are four different energy retail regulatory regimes across Australia covering the main obligations for retailers.

- In the NEM states alone, there are two separate retail regulatory regimes that set out the key obligations for retailers. One applies in Victoria, and the other applies in the states/territories which participate in the National Energy Customer Framework (NECF states) (NSW, SA, ACT, Queensland and Tasmania). Recent reforms responding to the Victorian review in Victoria have meant that the retail regulations in Victoria and the regulations in the NECF states continue to diverge increasingly.
- Further, WA and NT are additional contestable retail energy markets which have another two retail regulatory regimes.

The existence of these different regimes will raise the cost of take up of the CDR by ADRs and could present barriers to expanding to all states/territories. For instance, any use cases which involve an ADR marketing energy plans, will need to comply with different marketing and precontractual information requirements across the jurisdictions. Further, if that ADR wanted to notify key milestones in a customer's contract on their dashboard, such as the customer's discount period ending, those notification requirements are regulated differently across the jurisdictions.

There is also a lack of consistency outside the main regulations. Concession/rebate arrangements and energy efficiency schemes (where there is one) are very different across the Australian states/territories. These inconsistent schemes are even more fragmented, which could form a further

¹⁰ <https://treasury.gov.au/consultation/consumer-data-right-energy-sector-designation-instrument>

barrier to expansion of CDR services by ADRs who would otherwise provide concession/rebate or energy efficiency type services.

In view of the above, regulatory harmonisation or alignment for energy specific regulation is essential to facilitate the full participation by ADRs nationally in a cost-effective way.

Separately, we also consider that as the CDR is rolled out for the banking, energy, telecommunications and other sectors; and this leads to convergence and new competition across those industries, the case for energy specific regulation should be re-assessed. Energy specific regulation (and any other industry specific regulation) could be a barrier to entry or raise the costs borne by entrants from other sectors.

In the absence of regulation, cross sectoral competition could drive better market outcomes compared to regulatory outcomes. Further from a customer experience perspective, sector specific regulation will lead to different information and “look and feel” depending on the service, even though they are shown on the same ADR dashboard. This could result in a poorer customer experience.

Other opportunities for the CDR

The initial implementation of the CDR for energy will by itself deliver the basic use case of energy retail plan comparisons, recommendations, and switching (Basic use case).

Third Parties can use a recent bill for energy plan comparisons today. The Government comparison sites – Energy Made Easy and Victorian Energy Compare – also use metering data obtained from AEMO, on request. We expect that under the CDR, commercial Third Parties will increasingly move to use meter data as well, as it will be more accessible in real time under the CDR. Metering data will provide better consumption information, and more accurate recommendations of the best electricity plan (considering different pricing structures). This is particularly the case for solar customers who face additional challenges in finding the cheapest electricity plan because they need to account for the value of their feed in tariff (which they receive for electricity exported to the grid).

Better and customised information will mean ADRs will be able to provide unqualified advice to customers, helping to educate them about energy services and improve customer engagement and trust over time (where current customer trust and engagement in the retail energy sector is low). Education can extend to recommendations on when to use energy to lower energy cost.

While these Basic use cases are valuable, EnergyAustralia considers that there are many use cases beyond them. The CDR should be designed to facilitate the development of these use cases as below:

- **Energy related services:** Metering data, billing data and Distributed Energy Resources register data, could be used by ADRs to recommend solar, battery storage and demand response services (these are currently contemplated as advanced use cases for the current implementation of the CDR).

We see the same data, potentially combined with cross sectoral data such as spend data in the banking sector, as supporting decisions to buy electric vehicles, with financing options. Another application is the recommendation to buy energy efficiency appliances where meter data can be analysed to show inefficient appliances.

To support the above, CDR data sets must be designed with enough granularity to allow ADRs to conduct supporting analysis for the relevant functionality.

- **Different sectors:** While the common ADR example is a comparator or brokerage service for energy plans, we also consider that other sectors may find alternative use cases.

- Financial counsellors for hardship customers, and financial advisors may find use cases which would assess the appropriateness of an energy plan.
- Builders, renovation companies or those selling heating or cooling could provide better products, advice and service knowing the consumers energy use and energy appliance information.
- The CDR may be used by medical service providers to streamline and automate the notification of an energy retailer and distributor of a customer's life support requirement.

The current process requires the customer to be diagnosed with a life support requirement and then notify a retailer or distributor. The retailer/distributor would then send the customer a medical confirmation form which requires the customer to see their doctor again and obtain the doctor's signature. The completed form must then be sent to the retailer/distributor and the retailer/distributor then needs to notify the other party. This process can be inconvenient and time consuming for all parties involved. The CDR could provide for automatic notification from the medical practitioner after the first diagnosis, to the retailer and distributor without the need for a form and multiple interactions between the parties.

To facilitate the above, given these use cases for energy are ancillary to the core business of a financial or medical service, the CDR should be designed to be interoperable and accessible (via common API standards) so that they can interface with common existing portals of other service providers.

Future scope of the CDR

Below we consider the inclusion of certain data sets in the future, after the current implementation of the CDR.

Embedded networks

Embedded networks are private electricity networks which serve multiple premises ("child connections") and are only connected to the distribution network and national electricity grid, through a "parent meter" connection point. The current implementation of the CDR does not appear to apply to child connection points in embedded networks that are on supplied by a seller that has purchased electricity at the gate meter (these child connection points are often referred to as "off market"). We note that customers serviced via embedded networks is growing due to the increases in apartments and housing estates in recent years. For the CDR to be ubiquitous for the large majority of energy customers (regardless of where they live), we would expect benefits in expanding the CDR to embedded networks in the future when the AEMC's Final Report on Updating the Regulatory Frameworks for Embedded Networks¹¹ is implemented.

Implementation of the AEMC's Final Report would mean that previously "off-market" customers in embedded networks would be put "on market" and that their data would be visible to, and centrally held by, AEMO. This would lower the cost of expanding the CDR to embedded networks and allow greater access to more retailers (so there would be greater benefits from the CDR from competition among more retailers).

Gas meter data

According to the Draft Designation Instrument, gas metering data also appears to be out of scope for the current implementation of the CDR, but retail gas plan data is in scope. Including gas meter data in the future will mean ADRs will be able to provide better recommendations based on consumption data across both gas and electricity to optimise the energy mix. E.g. recommendations around switching between natural gas and electricity for hot water, heating, and cooking.

¹¹ Available here: <https://www.aemc.gov.au/market-reviews-advice/updating-regulatory-frameworks-embedded-networks>

Large and multisite business customers

As a general principle the CDR should apply to the majority of small residential and business customers as this is where the CDR will realise the most benefit.

The CDR should not extend to large customers because their energy service requirements are considerably more complex. There is also a market that already delivers sophisticated energy data services to large customers. In addition, multisite business customers which have consolidated small sites under one contract, one bill and have waived many of their consumer protections (in NECF states only) should remain out of scope for the CDR. Again, their energy services are often tailored, and retailers have already invested in bespoke products tailored to these customers.

Extending the CDR to large business and multisite customers is far less likely to be an efficient investment and it would need to be set up quite differently than for residential and small-to-medium business customers.

“Behind the meter” data

Data measured by devices such as solar and battery inverters, appliance management devices (e.g. for batteries) and load control devices (e.g. air conditioners that can adjust their load) is often referred to as “Behind the meter” data. This data is different to data measured by the market meter and is measured by devices that are “behind the market meter” on the side of the customer’s premises. “Behind the meter” data is not visible or accessible today by industry parties or AEMO.

“Behind the meter” data is currently being used for demand response type activities, including behavioural and automated demand response services provided to retail customers. These services offer customer’s payment for reducing or shifting their load away from peak demand times when the electricity prices are highest, networks are constrained, or there are system reliability or security issues. Retail demand response providers need “Behind the meter” data to estimate how much electricity is being stored or being used by the device so they can adjust load. The data is usually only available through the manufacturer’s portals that are built to enable demand response.

In contrast, data measured by market meters does not relate to any device. Rather, it relates to the electricity passing through a premises’ connection point on the distribution network (which connects the premises to the national electricity grid). Market meter data measures the electricity flows from and to the grid, that is, electricity imported from and exported to the grid (exports relate to solar PV systems or batteries). This market meter data is captured by AEMO’s market systems and used to settle the National Electricity Market (while “Behind the meter” data is not).

Our view is that the CDR should not apply to “Behind the meter” data at this time (this aligns with the scope of the current CDR which appears to only include market meter data). We consider use of “Behind the meter” data is at its embryonic stage and the market should develop its use to a scalable level without regulatory intervention. Further, this data is often enriched via the application of analysis and algorithms which makes it proprietary value-added data. We consider this data is the intellectual property of the data holder, and the market should be permitted to place a fair value on the intellectual property rights attached to it, to promote further investment in creating value-added data. The threat of regulation (via subjecting that data to the CDR) would deter this investment in the sector to the detriment of competition and customers.

Further, retail demand response providers are already obtaining access to “Behind the meter” data via contractual arrangements, which suggests that data accessibility is not a barrier to investment in demand response. It is also likely that “Behind the meter” data is considered to be much more private to the customer and they may not like this information being available to ADRs.

In the future, broader reforms in the energy sector may incorporate “Behind the meter” data into AEMO’s systems and the national electricity market. In particular, we refer to the Post 2025 Market Design for the National Electricity Market (led by the Energy Security Board).¹²

¹² <http://www.coagenergycouncil.gov.au/publications/post-2025-market-design-national-electricity-market-nem>

The Post 2025 Market design will advise on a secure, reliable and lower emissions electricity system at least cost to apply from the mid-2020s. Importantly, it will also consider how decentralised distributed energy resources (DER) (e.g. Solar PV and batteries) participate in the electricity market. This integration of DER may require better “Behind the meter” data to be visible in AEMO’s systems and accessible to industry participants. If “Behind the meter” data were integrated in that way it would be usable at scale, and then consideration should be given to whether the scope of the CDR should also expand to include “Behind the meter” data.

The Post 2025 Market design may also significantly change the market participants in the national electricity market and the supply chain. In the future market design, the retailer role may not exist in the same form and there may be new participants. For instance, the Energy Security Board’s Two Sided Market Review Issues Paper¹³ contemplates two market participant types: a User which provides or receives service at a connection point (e.g. customer, generator) and a Trader that trades all energy services on behalf of Users between themselves, AEMO, and networks (e.g. retailer, aggregator, and generator). The future version of the CDR will need to evolve and adapt to changes to market participants (if any). For instance, the definition of data holders would need to evolve.

¹³ <https://prod-energyCouncil.energy.slicedtech.com.au/sites/prod.energyCouncil/files/Two-sided%20markets%20-%20ESB%20COAG%20Paper-%20Consultation.pdf>