

Submission to the Consultation on the ACCC Consultation Paper: Data Access Models for Energy Data

22 March 2019

By email: ACCC-CDR@acc.gov.au

Dear Secretariat,

Re: ACCC Consultation Paper - Data Access Models for Energy Data

Consumer Policy Research Centre (CPRC) would like to thank you for the opportunity to respond to the ACCC Consultation Paper: Data Access Models for Energy Data (Consultation Paper).

CPRC is an independent consumer research organisation which undertakes research to inform policy reform and business practice change. Our goal is to achieve a fair outcome for all consumers. We conduct research across a range of consumer markets, with a focus on consumer decision-making, housing, consumer data and the online marketplace. We work collaboratively with academia, industry, government and the community sector.

CPRC strongly supports reform of the data protection, management and portability framework in Australia to provide consumers greater control of their own data and personal information. We also highlight the benefit and need for the implementation of an economy-wide data protection and management framework in Australia alongside the introduction of the CDR. This economy-wide data protection reform is an approach that many jurisdictions internationally have taken to ensure that consumers are sufficiently protected and provided with agency in the new digital age. Implementing economy-wide protections in Australia would ensure that the reforms to open up data would occur within a protected environment. All the models, by allowing the easier portability of consumer data, present increased security and privacy risks to consumers in the absence of economy-wide data protections in place. A modern data policy framework would provide a better base on which to consider the optimal Energy Data Access model to support the CDR.

As noted in the Consultation Paper, the selection of energy data access model will affect the cost and operation of the Energy CDR system. The models offer different levels of transparency and control to consumers and the selection of model design will be a direct influence on the consumer experience within the Energy CDR framework. CPRC considers that of the three models included in the Consultation Paper, either Model 2 (gateway) or Model 3 (open banking) would be appropriate. More information on data security, storage and transfer arrangements, as well as consumer consent processes, would be required before a final assessment of either model.

Question 1: Are there any other assessment criteria or relevant considerations which the ACCC should use to determine a preferred model for consumers to access their energy data under the CDR?

The Consultation Paper states that ‘the specific processes for consent, authorisation and authentication in the energy sector will be determined at a later stage, through the CDR rule-making process once the data access model has been determined.’ (p.24) CPRC notes that as the type of energy data access model chosen will influence consent management processes, it may be worthwhile to consider optimal consent arrangements at a high level as part of the assessment. For example, an assessment of the extent to which these different data models would allow consumers to control the flow of their data, and the transparency of those data flows to the consumer would be a valuable analysis. CPRC acknowledges that much of this analysis will be during the rule and standard development phase, but it may be worthwhile to incorporate these considerations as part of the assessment process.

Question 2: Having regard to the assessment criteria, what are the advantages and disadvantages of each of the models?

Model 1

CPRC does not support Model 1, the AEMO centralised model, as the risks to service reliability, security of data and consumer privacy outweigh any potential benefits of centralised storage.

Model 1 allows personal data to be stored without consumers providing consent for a specific purpose or use and before participating in a CDR process. Requiring collection and storage of consumer data for unclear purposes and without consumer request is contrary to the policy intent of the CDR and may be detrimental in developing consumer trust in the CDR Energy process. Data61 qualitative consumer research on the CDR found that consumers were averse to data sharing when they did not know what would happen to that data.¹

The consultation paper notes that AEMO doesn’t hold many of the data sets, such as billing data, that are likely to be requested through the CDR. This model would require AEMO to collect and then store consumer information, at a unit level, in a centralised database. (p.25). The centralised database represents a single point of failure for service delivery but more importantly is also an unacceptable security risk. The impact of data leakage or breaches from such a database could be severe. Unit level energy data is particularly sensitive, allowing inferences about household activities, lifestyle choices and the number of occupants. As has been seen in the recent roll out of the MyHealth medical record, repeated

¹ Data61. (20 February 2019). Consumer Data Standards. Phase 1: CX Report. p.41

breaches of this centralised database (42 in the last financial year²) has led to significant consumer concern about privacy and security.³ Markets hinge on consumer participation, but this participation requires that consumers can trust market mechanisms to deliver good outcomes.

Models 2 and 3

CPRC considers that more information on data transmission, information storage arrangements, consent flows and other process related information is required before a final assessment could be made on the advantages of Models 2 and 3. A high level evaluation of the advantages and disadvantages of Model 2 and 3 according to the assessment criteria is outlined below.

- **User functionality**

The two models offer different consent management and revocation process. Model 2 offers the potential for a centralised hub for customer contact and consents, while Model 3 appears to place these two functions with individual data recipients. Depending on the design, a centralised hub that listed, managed, and revoked consumer consents upon request would be a better consumer experience and may encourage more consumer take-up of the service. The benefits of Model 2 will depend upon the transparency and comprehensibility of the consent management process put in place.

- **Reduced supply-side**

A centralised hub has the potential to reduce costs for new businesses. If AEMO develops a standardised and centralised consent hub, this may reduce or avoid the cost to business of developing their own consent management processes, potentially reducing costs passed onto consumers and resulting in lower barriers to entry for new players.

The AEMO gateway model might also enable new players easier access to data. Incumbent providers have little incentive to share their customer's data with new entrant competitors seeking to offer competitive prices. In Victoria this was particularly evident after the roll out of the AMIO smart meter program, where energy retailers were often slow to provide consumers with their data and provided it in a format that couldn't be easily read. The 2017 report *Game Changers? A review of Next Generation Intermediary Services for Citizens Advice*, noted that one of the key factors inhibiting the development of *Next Generation Intermediaries* was access to data from incumbent providers.⁴

Model 2 allows AEMO to play a role in standardising or translating the format of data sought by accredited entities from incumbents, and through a centralised gateway arrangement reduce any delays on delivery of data from incumbents, or retention activities - which have been identified as costly to the consumer in recent energy market reviews.⁵

² Australian Digital Health Agency. (2018) Annual Report 2017-18. Australian Government. p. 59. Retrieved from: <https://www.digitalhealth.gov.au/about-the-agency/publications/reports/annual-report/Annual-Report-Australian-Digital-Health-Agency-2017-2018-Online.pdf>

³ L Yaxley. (24 July 2018) My Health Record needs privacy improvements to restore public confidence: Human Rights Commissioner. ABC News. Retrieved from: <https://www.abc.net.au/news/2018-07-24/my-health-record-human-rights-commissioner-wants-changes/10028618>

⁴ R Bates. (2017) *Game Changers? A review of Next Generation Intermediary Services for Citizens Advice*. Citizens Advice. p. 61-65.

⁵ For example, see Figure 10.3 NEM-wide CARC, \$ per residential customer, real values in 2016-17 dollars, excluding GST in ACCC. (June 2018). Retail Electricity Pricing Inquiry – Final Report. (p.222)

- Reliability, security and privacy

The security and privacy characteristics of Model 2 will depend on the rules and standards put in place around the role of the intermediary and the treatment and storage of data as it is requested and transferred to the data recipient. For example, the consultation paper notes that the co-ordination of the CDR process may require ‘a consumer to authorise sharing of their data by more than one data holder, or it may be that a form of central authorisation could streamline this process.’ The transparency of the consent process will be influenced by the understanding of the co-ordination role. Questions on the intermediary role include:

- Will all the data (AEMO held and AEMO requested) be consolidated into one file and transferred?
- Will AEMO be able to see the data that they have requested?
- Will AEMO be storing any of the data requested, and if so, for what time period and purpose?

Question 4: What additional requirements should the ACCC consider including the CDR rules for the energy sector if the gateway model is adopted?

The specific functions and responsibilities of the gateway intermediary should be defined. This will include rules around the collection, storage, and transmitting of data. These rules could include:

- controls over the time period for which gateway-requested (as opposed to gateway-held) data is stored,
- the visibility of the content of that data to the gateway,
- adequate security arrangements for the transfer of data, and
- controls over how the gateway-requested data is consolidated with the gateway-held data when it is transferred to the data recipient.

Question 5: What emerging technologies do stakeholders believe will have an impact on the energy sector with respect to the CDR

New business models, as much as emerging technologies, will have an impact on the energy sector with respect to the CDR. The Consultation Paper concentrates on the use of the energy data access model to support comparator services, but as the CDR is implemented across sectors, there is likely to be a range of use cases in operation. For example, a consumer wishing to purchase solar panels and a battery may be asked to provide access to their financial and energy CDR data to identify the most suitable energy option and appropriate financial packages.

The business models that will emerge are at present an unknown and in the medium term are likely to involve amalgamation of several different kinds of data. It is therefore important to make sure the models are transparent, comprehensible, explainable and offer sufficient protections to consumers. Consumer survey evidence from the UK a year into the introduction of Open Banking found many consumers do not necessarily trust that their data will be safe.⁶ In order for CDR to deliver the benefits envisaged, the proposed mechanism needs to consider consumer usability, effective consent management and building consumer trust as central pillars of its design.

⁶ I Fraser. (2 May 2018). Open banking fails to get consumer buy in. Reconteur.net. Retrieved from: <https://www.raconteur.net/finance/open-banking-fails-get-consumer-buy>

We would welcome any opportunities for further discussions during the consultation process.

If you have any questions or would like further information regarding this submission, please don't hesitate to contact Senior Research & Policy Officer, Brigid Richmond on 03 9639 7600 or brigid.richmond@cprc.org.au.

Yours sincerely,



Lauren Solomon

Chief Executive Officer

Consumer Policy Research Centre

