AGL Energy Limited
T 02 9921 2999
F 02 9921 2552
agl.com.au
ABN: 74 115 061 375

Level 24, 200 George St
Sydney NSW 2000
Locked Bag 1837
St Leonards NSW 2065

Treasury
Langton Cres
Parkes ACT 2600

Submitted by email: data@treasury.gov.au

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Consumer Data Right - Energy Sector Designation Instrument

AGL welcomes the opportunity to comment on the Consumer Data Right (**CDR**) Energy Sector Draft Designation Instrument (**DI**) released on 6 May 2020.

AGL supports the development and roll out into the energy sector of the CDR regime, recognising the benefits that can be delivered to consumers. As CDR is intended to be an economy-wide framework it is important the DI for energy focuses on the overall objectives of the CDR regime regarding interoperability and leveraging existing industry arrangements, to build consumer awareness and trust, and therefore participation.

Our key comments on the DI and broader energy CDR approach are:

- The draft DI is significantly broader than previously outlined by Treasury and ACCC and may represent unintended risks and costs. We encourage Treasury to undertake a fulsome review, including consider further consultation on the draft DI that is accompanied by relevant supporting materials such as the privacy impact assessment and relevant cost-benefit analysis.
- To achieve the interoperability objective, the proposed AEMO Gateway model should be limited to data transfer/conduit role between CDR participants. This should be explicitly stated within the ACCC Rules. The data standards should be consistent for all CDR participants including AEMO and retailers.
- While the energy sector has some unique characteristics, the more bespoke the energy model becomes the higher the industry operational costs, hampering the delivery of consumer benefits. This cost is amplified when considering cross industry interactions.

We also believe that it would be appropriate to assign a single data holder for metering data under the DI. Given the types of additional metering data that retailers hold that are not available to AEMO (such as customer self-submitted meter reads, retailer estimates and secondary meter information for billing purposes), it would be appropriate for retailers to be assigned as the metering data holder. This would also allow for a greater consistency of data requests that will benefit consumers (e.g. requested metering and billing information are more closely aligned to paint a picture of the consumers electricity arrangement).

Given the range of issues and potential risks with the draft DI and the current COVID-19 environment that government and retailers are focussed on supporting consumers, we encourage Treasury undertake a second round of consultation on the revised DI, including a stakeholder roundtable to ensure potential risks to consumers and competition are considered.

If you have any questions, please contact Kat Burela on 0498001328 or at kburela@agl.com.au.

Regards

Elizabeth Molyneux

General Manager Energy Markets Regulation

Executive summary

The key objectives of the CDR regime are to be customer focused, encourage competition, create opportunities for businesses and ensure efficiency and fairness with all CDR participants.[1]

In the following submission we assess the ways the DI and broader approach for energy CDR will and will not support these broader CDR objectives.

The below submission is separated into two sections:

1. Sector design – focusing on key matters relating to governance, interoperability, the role of AEMO and other general design matters and,
2. Comments on the drafting of the DI and potential risks/considerations.

We note that our comments in this submission are both for the specific drafting of the DI, as well as matters that may be better addressed in the ACCC Rules. We raise them in this submission as the DI and ACCC Rules are interrelated, and we believe it is important to raise these concerns early to ensure they are given proper consideration – particularly with such condensed consultation timeframes.

Timing

The economy is responding to the unprecedented impacts caused by COVID-19. Retailers are facing significant impacts to our resourcing for several reasons including:

- Diverting resources into customer support programs such as our COVID-19 Support Program[2], and the Energy Network Australia (ENA) support program.[3]
- Implementing regulatory reforms with a 1 July 2020 date[4]
- Increased engagement and reporting requirements with energy regulators and relevant state government bodies.[5]
- Urgent energy consultations on rule changes in response to COVID-19.[6]

Given all these, we do not believe that energy stakeholders will have sufficient scope to provide a fulsome and detailed response to this consultation which may result in unintended and negative consequences for consumers using CDR for electricity. We strongly urge Treasury to take the appropriate time to consult and design the DI for electricity, rather than seeking to meet a 1 July 2020 deadline and risk introducing a DI that is under-constructed.

Need for governance

While Treasury has provided an explanatory statement with the DI, it does not provide adequate insight into the objectives or intent of decisions that are beyond the scope of previous stakeholder engagement. For example, the banking designation instrument and explanatory statement provides examples of what could be considered materially enhanced data. Energy has not been afforded

[1] Open banking report 2017 – foreword
[2] See for example - https://www.agl.com.au/coronavirus
[3] Energy Networks Australia support program information
[4] Such as the Clear and Fair Contracts final decision in Victoria, conditional discounts in National Energy Customer Framework jurisdictions, default market offer etc.
[5] AER new reporting requirements relating to COVID-19.
[6] Five-minute settlement start-date delay consultation by the Australian Energy Market Commission (**AEMC**), Request for rule change – extension of time for retailers to pay networks.

these types of considerations which makes it difficult for stakeholders to truly understand the potential scope of what is being proposed in the DI.

Clear objectives and direction intent released by Treasury and the ACCC would also help provide context for stakeholders to other drafting decisions. For example, the combination of retailer and government comparator 'product data' sets within the drafting and whether this was a matter of expedience or if there is another intention (such as the potential to capture product offer information for expired offers, which we do not believe provides any benefit under CDR).

Ensuring consumer protections

We believe that both the DI and the ACCC Rules need to ensure that there are consumer protections offered through an appropriate consumer authentication and consent flow. This should mirror the approach in the economy-wide model, where consumers are authenticated by their service provider (e.g. bank or energy retailer) to be able to access and port their customer data.

Minimising the role of AEMO in this context is therefore both appropriate (in the context of the broader CDR objectives) and helps ensure protective measures (such as the CDR dashboard) are managed and accessible for consumer for all data designated under the CDR regime. Based on existing industry authentication practices, consumer recognition and trust will sit with their energy retailer in these circumstances.

An interoperable system

To ensure a consistent consumer experience, and to properly achieve the objectives of the CDR regime[7], Treasury, the ACCC and Data61 need to ensure that energy needs are considered and incorporated into the broader CDR requirements (such as industry agnostic technical standards and the general sections of the ACCC Rules). However, this does not mean that energy needs to have its own bespoke model.

As we discuss further below, the AEMO gateway model can offer some efficiencies to retailers in terms of the orchestration of market participants who hold various data sets, but this does not mean the gateway model needs to provide more than that. The CDR system should leverage existing relationships and arrangements that retailers, banks or telecommunication companies already have with businesses.

We caution against an approach that would remove retailers from the touchpoint with consumers and potentially undermine the intention of the broader CDR regime. An AEMO authentication model also potentially hinders energy businesses opportunities, such as becoming multi-service providers across a range of CDR designated sectors. Authentication by the multi-service retailer means consumers get a one stop shop experience when seeking to access their data sets held by the multi-service provider.

Drafting issues

Legislation and relevant instruments must be drafted in the narrowest sense to avoid unintended Legislation and relevant instruments must be drafted with clear delineation of functions and guard rails for rule-making bodies to avoid unintended scope creep and to provide certainty to the Australian economy. The drafting of the DI is essential to providing not only greater certainty to the

[7] As noted in the open banking report – foreword - https://treasury.gov.au/sites/default/files/2019-03/Review-into-Open-Banking-_For-web-1.pdf and the CDR Act Explanatory Memorandum

market, but to ensure that those bodies with powers to implement obligations on the market do so within the confines of an appropriately drafted power.

The focus of completing the drafting before 30 June 2020 rather than getting it right while also expanding the DI significantly beyond what has been previously been consulted on with stakeholders increases the likelihood of not getting the CDR energy framework right. Further, this is beyond what was costed against by the HoustonKemp report developed in 2018, which in itself was not conducted for CDR in the first instance (but was subsequently made to fit the CDR regime) and we believe substantially underestimated the costs to the energy sector. These broad definitions may result in unintended consequences, including a less effective consumer authentication and consent model and a disjointed energy sector participation in the broader economy-wide model of CDR. It may also require substantial changes and/or standardisation of retailer information and processes that had not previously been considered.

By not providing stakeholders time to adequately review the DI, and not running multiple processes (as occurred in banking), Treasury is creating an instrument that is overly reliant on the role of the Australian Competition and Consumer Commission (**ACCC**) to then limit electricity CDR scope. The issue is not of ACCC capability in limiting the scope, it is in the appropriateness of Treasury deferring that level of responsibility when the CDR objectives can be achieved through a limited scope DI. We note that the Scrutiny Committee for the CDR legislation raised concerns over the broad discretionary powers the CDR Bill would grant to both Treasury and the ACCC[8] which is something we encourage Treasury to be mindful of when developing this DI.

On specific drafting matters, we recommend that retailers should be assigned as metering data holders for the following reasons:

- Billing and metering data together provide a more accurate picture of the way the customer interacts with their electricity arrangement with a retailer.
- Retailers collect and hold additional metering information that AEMO use for market settlement purposes and therefore do not need in their role as the market operator.
- This additional retailer held metering information will help future-proof the growth and transition in the energy market as more diverse service providers come in and provide services through the customer meter.
- Retailers will already be incurring IT build costs through their role as data holders for billing, product and customer provided data.

[8] See the Senate Scrutiny Committee report into the CDR Bill in 2019 - https://www.aph.gov.au/~/media/Committees/Senate/committee/scrutiny/scrutiny_digest/2019/PDF/d02.pdf?la=en

Section 1 – Sector design

This section explores the current approach to energy CDR and our views for broader market design and CDR system needs to ensure an effective and interoperable CDR system that equally benefits all CDR participants.

Governance and energy consultation

We continue to urge Treasury, the ACCC, Data61 and AEMO to provide greater transparency for the objectives and direction of energy CDR. AEMO is only one of many energy stakeholders, and it is inappropriate to be using the views of one stakeholder to inform major decisions for the whole energy sector. Especially as AEMO's role is provide a central system for backend B2B transactions and does not have a customer facing function, including customer services, and CDR is focussed on empowering customers to access their data to make informed decisions. AEMO's functionality is the same as clearing houses in banking, where central B2B arrangements are used for banks to sort and exchange payment arrangements drawn on each other.

While this may seem repetitive for Treasury and ACCC having already gone through the process with banking, energy retailers must be afforded the same opportunity to input to ensure the CDR energy framework considers and addresses all likely consequences from a customer engagement perspective.

Greater transparency will help enable stakeholders understand what other changes and processes are necessary or discretionary in relation to the CDR. For example, the AEMO MSTATS consultation[9] to implement changes to facilitate CDR will have greater transparency for those market participants who will be impacted by the change. We do not believe that AEMO should be seeking to make changes to current market procedures until the ACCC has consulted, evaluated and provided clear advice to stakeholders on the consent model.

As we describe further below, this is a continuing concern regarding the potential scope of AEMO's role as a designated gateway, and what impacts this may have on both customers (in relation to trust, participation and protections) and the market (in relation to interoperability through an economy-wide model).

No appropriate cost-benefit analysis

We remain concerned to the energy designation lack of an appropriate cost-benefit analysis being undertaken. AGL, and other stakeholders, have raised on several occasions the lack of appropriate consideration on the potential costs for the sector in implementing CDR. This is compounded by a lack of transparency in the overall design and expectations Treasury and the ACCC have for the energy sector.

A thorough cost-benefit analysis is essential for determining the scope of the CDR, the appropriateness of selected data sets, the scale of AEMO's role as a designated gateway, the potential costs for industry participants if AEMO has a bespoke energy model created instead of the economy-wide model, and so on. We refer Treasury to our previous comments regarding the HoustonKemp report and how it is not fit-for-purpose in assessing how the CDR model should be applied to energy.[10]

[9] See the AEMO MSATS Standing Data Review, 14/05/2020

[10] See our submission to the ACCC Banking Rules on 10 May 2019 on page 20 where we discuss this matter further.

While theoretically the gateway model is a cost-efficient model in the short term for retailers, other factors need to be considered, including:

- Potential missed innovation multi-service opportunities for energy retailers in the broader economy-wide model
- Potential increased compliance costs for energy retailers who play multiple roles in the CDR regime.
- The scalability and potential future opportunities the CDR regime can offer that may be impacted or reduced by a gateway model. [11]

Retailers will incur costs both through their own IT and system build requirements, as well as through market participant fees levied by AEMO. This will be on an ongoing basis, and potentially increase exponentially if the AEMO role is not appropriately considered and aligned with the CDR economy-wide objective functionality. HoustonKemp never evaluated these cost aspects.

Interoperability of the CDR system

We consider that the CDR must operate on an economy-wide model that is mindful of other known sectors when creating economy-wide obligations such as general rules or industry agnostic data standards. We have previously raised concerns that the consultation has focused heavily on banking and therefore was establishing an economy-wide model that was appropriate for one sector. This was compounded by language used at the time of creating the CDR obligations, referring to *Open Banking* and *CDR for banking*.[12]

While these general concerns remain, we agree that an economy-wide model is the best way to ensure benefits flow for both consumers and businesses under the CDR regime. To maximise these benefits, AEMO's role as a designated gateway needs to fit in to the economy-wide model and minimise its presence and impact on consumers' usage and understanding of CDR framework across various designated sectors. Further, if this does not occur, national retailers may face extremely high IT costs to build and implement different CDR models, for example:

1. The AEMO model (energy model);
2. The Western Australian energy model (electricity metering data is not currently subject to a consumer right to access as electricity is not open to competition in WA[13]*);*
3. The telecommunications model (should a different path to banking is developed); and
4. The economy-wide model (should a retailer choose to be an accredited data recipient)

This approach would be counter to the proposed purpose and approach of the CDR regime. Moving energy away from interoperability potentially increases consumer complexity in using CDR and reduces the competitive benefits that businesses in the CDR system can achieve.

Reciprocity

We also note that the HoustonKemp report does not explore the costs of value-added data, non-electricity data, customer authentication and consent flows, interactions with broader CDR economy-wide model (including potential missed opportunities for industry participants), the new privacy safeguards and how this may be impacted by the AEMO gateway.

[11] See for example [Treasury future directions paper]

[12] For example, the ACCC Rules include general rules which are expected to be industry agnostic, and then a banking specific schedule. However, the ACCC advertised this consultation as 'banking ACCC Rules', which likely limited the scope of engagement by stakeholders.

[13] As noted in the HoustonKemp report

The principle of reciprocity can offer significant benefits to CDR participants (both consumer and business). We believe that reciprocity of data sharing is critical to provide a level playing field and ensure Australian businesses can remain competitive in the digital economy. If the ACCC determines that the role of AEMO will make reciprocity in energy too difficult, and therefore amend, or create sector specific rules, excluding energy from this, then it will impact energy retailers ability to compete with businesses that access banking/energy CDR data sets but are not required to share their own data sets.

The concept of reciprocity should be broadened to ensure that those receiving data and benefitting from the regime are also subject to its obligations to share data, if directed to do so by consumers.[14]

The principle of reciprocity is key to creating a 'network effect' to quickly advance the successful implementation of the CDR. This principle also ensures all participants are incentivised to deliver the right outcomes for consumers.

Most importantly, we do not believe that the CDR should be used to transfer resources and data from one business or sector of the economy to another at no value. Charges for use cases and solutions will need to balance commercial and consumer interests, and market participants should be encouraged to innovate and develop tools and solutions as the CDR matures.

Consumer protections

AGL believes that the energy designation needs to set a high standard for consumer consent and authentication framework, similar to the economy-wide model under banking. This is to ensure the objectives of the CDR regime are met and the strong consumer protections embedded within the CDR Act is utilised. It is therefore important the following two key elements are addressed:

1. The ACCC consumer authentication model;
2. The AEMO two-tier 'eligible consumer' model.

More information on these are provided below.

1. The ACCC authentication model

We support a consent model that is in line with the economy-wide model and the overall intention of the CDR which is to facilitate and leverage existing relationships and arrangements between consumers and businesses for the purposes of data sharing.

We do not support a model that would require retailers to send AEMO customer data for the purposes of authentication. This is a completely unnecessary and complicated build that moves energy participants further away from the economy-wide model. Energy retailers, just like other service providers in other sectors, are diversifying their services and offers for customers.

Treasury and the ACCC therefore need to consider not just the current state of the energy sector, but the future directions of both the diversification of products and services and the expansion of the CDR as the right evolves and matures.[15]

The consumer protections embedded in the CDR are also just as essential. While we explore this further below, we note that AEMO does not have a customer facing role in the market, so it is

[14] This is a position that is shared with other stakeholders such as the Business Council Australia and its members.
[15] See the [Future Directions Inquiry paper]

unclear how it is necessary or appropriate to send them customer information for the purposes of validation under the AEMO authentication model. This process would also impact things such as the consumer dashboard and how this is administered, accessible and meaningful to consumers if not done through the business they have a relationship with (whether bank, telecommunication provider or energy retailer).

This means that an authentication model that is built for energy should mirror what is expected to be rolled out in other sectors (and has been established in banking), which is where the businesses leverage the existing consumer relationship and systems to build a CDR experience for the customer. There is no need for this to be done through a new system (not yet built, for which consumers have not had experience in using and therefore trust) that will have AEMO receiving consumer data and authenticating customers.

2. The AEMO two-tier model

We do not support AEMO's proposed two-tier model for the energy designation.

The approach that was taken in banking, that was supported due to the intention behind the CDR Act, is that all data under the regime should be subject to explicit consumer consent except for publicly available product data. We therefore believe that the only circumstance in which the two-tier model should be explored is in relation to the product offer information that is publicly available through government comparator websites. This will be consistent across all sectors and we caution against divergences from this under the guise of making it easier for consumers to access data – particularly at the risk of privacy implications.

The AEMO two-tier model is:

A. **Account holder (retailer designated data sets):** consumers who currently hold an account with an energy service provider at a premise, or
B. **Resident (AEMO designated data sets):** Consumers who have access to an electricity bill at a premise.

While we recognise that AEMO currently operate the Consumer Data Platform, which links into the government comparator websites and uses NMI, postcode and retailer for comparisons to be made for the customer, this system is for limited use cases regarding product comparison and does not go directly to the consumer. There is currently no evidence that shows any substantial interest by non-account holders in the use of the Consumer Data Platform (that is, those consumers who would be considered 'resident' by association, such as spouse or housemate but are not the account holder). This could potentially be an expensive build for marginal or no consumer benefit.

It also raises several questions about privacy, for example:

- How will a consumer revoke their consent or request deletion under the Resident Customer authorisation?
- The consumer dashboard offers other benefits to consumers beyond consent management, such as acting as a transaction record for consumers on who they have dealt with previously. Under an AEMO-centred consumer authentication model, and the AEMO two-tier model, how would AEMO manage a dashboard? For example,
    - What type of consumer recognition and trust testing has been done against this model? (noting the dashboard also acts as a transactions record for consumers).

- Would customers have an AEMO dashboard for their Resident Consent and a retailer dashboard for their Account Holder Consent –and will the customer understand the difference?

It is setting up the scenario where it may become *easier* for customers to allow accredited third parties to access some of their data, but then creates two additional problems:

- That it is harder and more confusing for customers to manage and revoke this consent as a resident; and
- It may entice third parties to promote or utilise only the resident model with consumers to avoid authentication requirements. This could mean customers miss out on the broader benefits that the CDR regime can offer.

If it is determined that the resident model is sufficient for AEMO held data sets for the purpose of comparison, then perhaps it is more appropriate to limit version 1 of CDR only to AEMO held data sets, particularly as the first version of CDR will only enable third party access to data, not consumer-direct access.

We recommend a proper assessment of the consumer implications of all models and informed decision as to what is in the consumers' interest with accessing, utilising and trusting the CDR framework. Limited or partial analysis is likely to erode the fundamental protections embedded within the CDR Act and ACCC Rules.

AEMO's role

We recognise that the AEMO gateway model is considered a lower cost way to implement the CDR for energy where there are multiple market participants that may require orchestration to extract all relevant consumer data. However, to realise the true benefits of the CDR regime, the gateway model must align with the economy-wide model in terms of data sharing and overall market interactions. This will help to build consumer comprehension of the CDR framework and therefore participation. It also helps ensure energy retailers are not unduly limited in their ability to engage with the broader CDR market and provide benefits for their customers.

Despite its role as a designated gateway, we are mindful of AEMO's limitations as a potential administrator of a consumer protection framework under the CDR. AEMO is a market operator with defined roles and responsibilities that do not relate to consumer engagement and protection. Their role should therefore be limited to only the necessary technical orchestration of market participants through wherever possible their current B2B arrangements. This would be consistent with the CDR Act which states that the gateway is a person whose role it is to **facilitate the transfer of data** between certain participants in the CDR regime.[16]

While AEMO's role can be somewhat limited by the ACCC Rules for energy, as well as the data standards set by Data61, it is important that there is greater transparency and alignment between the DI, ACCC Rules and Data61 standards in how this will be approached. By being aware of the intended scope and structure of the AEMO gateway, stakeholders, can provide the appropriate information and evidence when it is needed.

[16] See part 1.37 of the Explanatory Memorandum to the CDR Act.

Without greater information disclosure and transparency, it is difficult to fully comment on the role of AEMO in the CDR framework. We provide the following observations for Treasury and ACCC's consideration:

- **AEMO is a market operator;** they are the system and market operator and planner for the NEM and pursue the National Electricity, Gas and Energy Retail Objectives of 'promoting efficient investment in … operation and use of electricity and natural gas services for the long-term interests of consumers … with respect to price, quality, safety, reliability and security of supply'.[17] They are not and should not be a body that connects directly with the consumer.
- **AEMO's orchestration role** becomes less relevant as the CDR regime broadens:
    - AEMO cannot orchestrate gas or other energy services as it can with electricity.
    - If Data61 goes down the route of assigning energy as a utility and folding in other services such as water or telecommunications under this category, the benefit of the gateway is further eroded.
    - It also risks increasing consumer confusion if a retailer branches beyond utility-based services (e.g. why would telecommunication data be accessed through AEMO). This would also create different data sharing obligations for hybrid energy-telecommunication and pure telecommunication companies. This issue arises based on a broad definition of *arrangement* which we address later in this submission.
- **The principle of reciprocity** will undermine the purpose of a gateway. For example, if an ADR becomes a subsequent DH under reciprocity, then to share the valid energy CDR data the ADR will need to either:
    1. Build systems to feed into the gateway (much as an energy retailer will) but will not be an energy market participant (e.g. for the purposes of paying fees or using AEMO's B2B arrangements). This would also unnecessarily increase their CDR costs and may introduce a barrier to entry/expansion in the market (costs become prohibitively high), or;
    2. Circumvent the gateway to provide for the data to be shared in the economy-wide model. This would mean that over time, the AEMO gateway becomes more and more irrelevant.

    For the reasons we have provided above under *reciprocity,* we do not consider it appropriate for the ACCC to consider simply turning off the principle of reciprocity for energy if the AEMO gateway model makes it too complicated.
- The ACCC has acknowledged that the CDR requirements for providing data to the gateway[18] will be **different to existing B2B sharing arrangements** facilitated by AEMO. This will create IT costs for retailers which will then be compounded by other CDR interactions (as we note above regarding the economy-wide model).
- **Customer authentication should be managed by retailers.** We support this principle because customers have a direct relationship with retailers and are therefore the first point of contact with respect to their energy needs. As such, retailers and customers have already established authentication and engagement processes which customers are more likely to trust. Customers may also wish to revoke their consent either digitally or through other contact points (such as telephone), which can be facilitated by retailers and not AEMO (as they do not have a customer call centre or the relevant customer data needed to manage such a request).[19] This is

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[17] See AEMO's website for more information about who they are and what they are responsible for.

[18] See the ACCC Data Access Models for energy paper released in August 2019, p2

[19] See for example the ACCC Rules amendment consultation, April 2020 – sections 4.13 and 4.25 on withdrawal which the ACCC is amending to ensure that consumers can withdraw consents in a number of ways through ADR and data holder (including by phone or writing).

increasingly important as the CDR regime will eventually apply to both online and offline customers.

It is therefore our position that to be effective in an interoperable, economy-wide model, energy CDR needs to ensure that the gateway is utilised in a minimalistic way that aligns with other designated sectors and relies on current customer authentication or engagement practices and arrangements.

Recommendations

1. Treasury and ACCC should provide public information about the expected role and scope of responsibility for AEMO (including customer contact/authentication etc).
2. Treasury should undertake an appropriate cost benefit analysis given the known direction and scope of the CDR for energy to ensure expanded scope does not cost more than the proposed benefits (including limits of the AEMO gateway).
3. AEMO's role should be limited to only that of data transfer facilitator between CDR participants.
4. Treasury and the ACCC must ensure that energy retailers are not disadvantaged by bespoke energy obligations that hinder their ability to interact in the broader CDR economy with their customers.

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Section 2 - Instrument

This section explores the drafting of the DI and makes specific comments on the drafting, potential impacts and offers alternatives.

As some general comments we recommend the drafting ensure that it:

- Facilities the objectives of the CDR regime in empowering consumers and encouraging innovation, built on pillars of appropriate consumer protections (e.g. through consent flows and management with the retailer)
- Applies to electricity only.
- Is limited to residential and small business customers only.[20]
- Applies to generally available product offer information (e.g. the data sets assigned to the Australian Energy Regulator (**AER**) and the Department of Energy, Water, Land and Planning Victoria (**DEWLP**).

Section 4 - scope of arrangement

We are concerned at the definition of "*arrangement*" as to what product information is captured under the electricity DI. Throughout the engagement process, stakeholders have been informed that the first version of CDR in energy will be limited to electricity. Indeed, all steps in the process to date have been limited to the concept of electricity data being exposed. See for example:

- **Treasury** - In the Priority Energy Data Sets consultation conducted by Treasury in August 2019, Treasury stated that ***Priority datasets that will be subject to initial designation under the CDR for energy will be limited to National Electricity Market data***.[21] It was also noted that gas and metering and product data would likely be captured in future CDR-relevant data sets. This paper did not consult stakeholders on the complexities or costs associated with the inclusion of bundled/associated goods and services.
- **HoustonKemp** - Recommended that the CDR in the energy sector apply to other data sets such as gas metering data, electricity and gas retail product data (contract offers), and non-NEM electricity data. It suggested these should be subject to the CDR, after a 12-month delay following availability of the first priority data sets.[22]
- **The ACCC**- Noted that the process for CDR implementation for further data sets, such as gas data sets and electricity data sets outside of the NEM, would need to be considered further.[23]

We would strongly encourage the definition of arrangement be amended to be limited to electricity at this time. Our above comments come due to the lack of certainty in how 'arrangement' has been defined by Treasury.

What is an arrangement?

This section considers what energy products and non-energy products are captured by the operative sections – 5, 8(1)&(2) and 9(4).

[20] See our previous submission to the ACCC Rules Framework, p.7 for more information about why large businesses should not be included for energy CDR.
[21] https://treasury.gov.au/sites/default/files/2019-08/c2019-t397812.pdf p.4
[22] See ACCC data access model paper, August 2019, p.12
[23] See ACCC data access model paper, August 2019, p.25

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The proposed drafting of the DI makes it uncertain as to what energy products, and related goods or services (**non-energy products**), are captured, or intended to be captured, by the operative sections. In particular, sections 5, 8(1)&(2) and 9(4) create uncertainty as to how wide the ACCC Rules could go in designating captured data sets for energy products and non-energy products.

The term 'arrangement' is used to determine what energy products and non-energy products are captured by the operative sections the DI. Section 5 defines arrangement, and provides that:

a. under an arrangement, there is always a supply of electricity (other than under section 10);
b. an arrangement may also include the supply of non-energy products; and
c. an arrangement for a supply of electricity (and, if relevant, a non-energy product), may be bundled with a separate arrangement for the supply of natural gas.

Section 5 does not provide guidance as to the difference between:

a. a single arrangement for the supply of two products – electricity plus a non-energy product; and
b. two arrangements 'bundled' together – one for the supply of electricity (plus a non-energy product if relevant), and one for the supply of natural gas or a non-energy product.

It is important that there is a clear understanding on when there is a single arrangement, and when there is a bundle of arrangements. This is because sections 8 and 9 seem to apply only to single arrangements and not bundled arrangements (except where section 9(4) applies). This means the definition of a single arrangement versus a bundled arrangement seems to determine to the extent those sections will capture information about natural gas, and non-energy products.

Without clarity on this point, under the ACCC Rules, retailers could be required to expose CDR data of another sector by its association through a contract with the customer (for example, telecommunications data).

We recommend that Treasury address this issue by removing the concept of bundling from the DI. This will ensure that the DI only requires data to be exposed in respect of:

a. the supply of electricity under an arrangement; and
b. the supply of natural gas where it is part of the same arrangement as the supply of electricity.

Recommendations

- **<Preferred approach>** In the first instance:
  - 'Arrangement' limited to electricity in line with the engagement with the energy sector to-date.
- **In the second instance:**
  - 'Related goods and services' be specifically limited to the supply of natural gas, and not non-energy arrangements. This would ensure that other sector data (such as telecommunications) is exposed only under its own specific designation instrument and ACCC Rules.
  - Remove the concept of bundling, so that an arrangement for the supply of both electricity and natural gas only is captured.
- **In the third instance:**
  - Provide a definition of an arrangement for the supply of electricity and a related good or service (for example, one contract and one bill).

- Provide a definition of an arrangement bundled with another arrangement (for example, separate contracts and separate bills).
  - Include a section that expressly provides that other sector data (such as telecommunications) is exposed only under its own specific designation instrument and ACCC Rules.

Remove 9(4) or redraft section 9(4) to clarify it only applies to bundled arrangements, and not products supplied under the same arrangement.

Section 6 (3) – period of data access

We note that under section 6(3) of the DI, data dating back to 1 July 2018 will be eligible CDR data. Assuming a start date of the end of 2021-early 2022, this would mean approximately 3.5 years of data must be made accessible.

Energy offer comparisons and calculations required by energy retail rules and laws rely on 12 months of usage data, and where that is not available, complex calculations have been developed by the Australian Energy Regulator to estimate 12 months of usage. Energy data will likely become less relevant over time as consumer circumstances change (e.g. they move homes, renovate, changed their living arrangement, changes to their appliances, work hours or family situation). It is therefore a costly exercise for industry to develop systems to access this period of data with potentially little-to-no benefit. Further, under existing energy retail rules and laws a 2-year period exists for data retention requirements. While record keeping obligations will vary across different pieces of legislation and specific obligations, a 2-year period would seem more appropriate.

Given the above points, we would recommend that Treasury align the data period to 2 years from the start of the energy CDR designation to increase the likelihood that data holders still have the relevant information being requested and to maximise the effectiveness and appropriateness of this data.

Recommendations

- Eligible data under energy CDR should be capped at 2 years of age (depending on the relevant start date).

Section 7 - Customer provided data

We believe this section is too broad and overlaps with other parts of the DI and should be limited to information required for the acquisition and/or provision of the service/arrangement. Other types of data may be collected that would broadly relate to a customer. For example, in situations where an employee is also a customer. This information is not relevant to their acquisition/use of the service/arrangement except for employee plans/discounts, which would separately be captured under product information in section 9.

As these data transfers will be transactional in nature, a clear pre-defined scope will ensure that both the purpose and objectives are maintained through future iterations of the ACCC Rules.

This is likely achievable through the ACCC Rules scoping, but unless there is a broader need for the current definition, we recommend Treasury maintain the principle of drafting for the direct purposes of achieving the CDR energy objectives.

Information provided from other sources

It is important to understand to what extent information provided by other sources that include information regarding a customer, or their account, will be captured. This is best informed by a set of clear objectives attached to the data sets. Some examples of these types of considerations include:

- **Life support information,** we note that this is generally captured by the customer-retailer relationship but not in all instances as the energy Rules allow for the customer to report Life Support with either the retailer or the distributor.
- **Trustee communication**, provided by a trustee of the customer (e.g. in scenarios of incapacitation) that direct amendments or change of authorisation on the account (we know that authorisations is separately collected under section 8(3), however in this case it is a notification of authorisation by a trustee).
- **Sensitive information about the customers circumstances**, this may include information about family violence, vulnerability, medical concerns/complications, separation, or other vulnerability flags.

These data sets can sometimes contain sensitive information about a customer's circumstances, including detailed information about medical conditions. It is therefore important that transparency for customers, as well as limitations on accessible data sets are in place so that consumer complacency in the consent process does not result in the disclosure of data they may not have otherwise intended (e.g. the customer may not recognise the term 'hardship' relating to their additional supports/considerations and may not otherwise want this data provided).

We also note that in Victoria, specific energy regulation under the Victorian Energy Retail Code requires retailers to consider the customer's circumstances which includes *any information that has been volunteered in conversations between the retailer and the customer.* [24]

Free-text fields may include sensitive information provided about another person in the household (e.g. a relationship breakdown, customer's partner's medical conditions etc). These could be deemed sensitive information under the Privacy Act and may also be subject to state legislation such as the Victorian and NSW Health Information Acts.

It is therefore essential that customer provided data is limited to predefined sets of information – rather than account notes that may be taken during a call or provided via a letter.

We also note that customer provided data is not necessarily appropriate for the purposes of an ADR checking eligibility for certain products. For example, a customer may state that they are a member of a certain club, this may or may not be externally verified by a retailer and retailer practices will vary. Customer eligibility will also vary over time (e.g. they have not renewed a membership) and therefore, customer provided information must be limited in its use to ensure customers are not incorrectly offered products they may not be eligible for.

Use of the term 'associate'

[24] See the Payment Difficulties Framework for more information - https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/energy-retail-code/energy-retail-code-review-2016-customers-facing-payment-difficulties

It would be useful for stakeholders to understand the intended purpose of including 'associate' and the breadth of its definition under section 4 of the DI.

We note the explanatory statement sets out that including an associate in the designation reflects there can be more than one account holder on an electricity account, or that the primary account holder may grant access to the account to a relative or spouse. However, the extent of this being applied to different individuals would be useful (e.g. is this intended to cover housemates in a share house arrangement)?

We would also appreciate further information on how the privacy implications of the term 'associate' have been assessed under the supplementary Privacy Impact Assessment and encourage that this be made publicly available.

We also note that the term associate may have additional impacts to customer circumstances. For example, if an associate (for example a housemate or spouse) seeks CDR data for the purposes of comparison and potentially switching to a service under their own name – they may not realise that in doing this they no longer receive concession benefits (e.g. their partner has a concession card but they do not). This is seen frequently by retailers and we inform the customer where possible that this may occur. This is another reason we do not support the AEMO two-tier model discussed in section 1.

Recommendations

- Customer information be limited to the access and/or use of the arrangement
- Treasury publish the supplementary Privacy Impact Assessment so that stakeholders can assess perceived risks.
- Customer provided information use should be limited (e.g. it should not be used for the purposes of assessing a persons eligibility for an electricity offer).

Section 8(2)(b) - Metering

Treasury and ACCC initially expected only AEMO to be designated as a data holder for metering, and to align this with incoming rule changes that will improve the meter data that AEMO holds.

Treasury has since expanded metering data to include retailers as a data holder. They have stated their intention for this is to capture any metering data sets that retailers may have **beyond what AEMO holds** (not for the purposes of doubling up on the same sets).

The types of *additional metering data* that a retailer would have includes **retailer estimates for customer billing, customer provided meter reads** (as allowed under NERR/ERC) and bespoke data (e.g. from a secondary meter that may change a customer's final bill). This data will not go to AEMO but is used for billing purposes and can influence the overall cost consumers pay for their electricity.

Our position on metering data sets is that:

1) metering data **should come from one source**, not multiple sources, to ensure consistency in the data sets provided and used by external parties for comparison purposes and for reviewing customer services.

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2) Who that meter data holder is should be guided by Treasury's overall objective in designating this data set (e.g. whether it is primarily for the purposes of comparison service, or some other objective).

3) The efficiencies that would have been gained through a single AEMO data holder designation become eroded if retailers are also designated for 'extra' meter data.

Given the direct benefits to be gained from including the additional retailer held metering data (as it coincides with billing data) and only nominating one data source provider, we recommend that Treasury make retailers responsible for the provision of **all** metering data.

Matters for consideration

The following are other matters for consideration on who is an appropriate data holder:

- **Customer bills** - The DI needs to be clear on the purpose of providing metering data from both AEMO and retailers. Is the purpose for an accredited data recipient to provide comparison services for a customer, or for reconciliation and review purposes of their current arrangement with a retailer? It is important to note that what retailers bill the customer on may not align with other retailer processes. When combined with billing data this can be clearer for customers who can access retailer held metering data sets such as customer provided reads (self-service meter reads) or retailer estimates (which are permitted under the energy Rules and Laws).
- **Multiple-trading rights**[25]– there are currently regulatory reforms being considered by the AEMC which would potentially see different businesses going through the one meter to provide services to the customer. The DI must consider both the initial state of CDR as well as the future design, interoperability and expansion to other data collectors.
- **Solar** – related to the above point on multiple-trading rights, there may also be issues with how consumers get the relevant solar information from their meter. Solar customers have their net data (total data) provided to MSATS, rather than their gross data (e.g. what energy is generated by the solar panels and what energy is consumed in the premise). The breakdown of this solar panel generation information is currently recommended to be accessed through the customers solar inverter provider, rather than the retailer. In future versions of the CDR, solar panel generators could be designated as data holders.

While we recognise there will be upfront costs for retailers in having to build solutions for the provision of all metering data, retailers will already incur costs as a data holder for other sets including billing and customer product information. We believe that retailers providing this metering data provides an overall benefit to CDR consumers because it will minimise discrepancies between AEMO data and retailer billing data and therefore reduce downstream customer service issues like queries and complaints about which metering data set is correct for comparison purposes. This aligns with the future state of CDR in energy where consumers will be able to access data directly (rather than just permitting it to be accessed by ADR) so such discrepancies will be more easily explained.

Further, designating retailers as meter data providers (such as we have described above) will provide a better outcome for consumers who may only consent to the information from the meter – not their billing or other personal data – being viewed by accredited data recipients. By providing more

[25] See the AEMC's current consultation in Retail Energy Competition Review on Electric Vehicles, p.9.

accurate metering information as it pertains to billing and other retailer processes within the metering data sets, it will ensure that customers can compare more accurately to their current circumstances.

We believe that minimising the potential for consumer confusion in this instance should be a priority in drafting the DI. Given retailers will continue to manage the relationship with the customer, complaints or queries regarding these datasets will be managed by the retailer anyway, it is therefore beneficial to have both the expanded metering data, and billing data, come from one source being retailers. From a consumer dashboard management perspective, having this data recorded and tracked with the retailer would also benefit the consumer.

Recommendations

- Retailers should be designated as data holders for metering data.

Section 8(3) – Billing information

The DI does not provide an objective of data sharing under billing information and therefore, makes assessment of whether the proposed scope is appropriate difficult.

If the objective is to facilitate energy product comparisons in the market, then information such as 8(3)(e) (payment method used) is not particularly relevant. We discuss this issue and other key concerns around the billing definition in the below table.

Table 1 – Billing information 8(3)

(a) a bill issued	• The inclusion of 'bill issued' introduces several risks to the CDR regime. As this could (and likely is intended) to mean the physical/digital version of the bill issued to a customer, – this will expose other CDR data (such as customer provided data including their name, address etc) that may be considered sensitive. Further, the information in a bill is highly regulated under the NERR and Victorian Energy Retail Code, and requires information that is more than just what a normal invoice would contain. It is therefore important for the DI to make it clear on the type of billing information required. • Further, the customer may choose not to have their customer provided data made available to a third party through the consent process but then inadvertently share when agreeing to provide billing data. • If the objective of billing information is to provide information on how much the consumer has paid over what period, the DI should make this clear. We cannot easily remove other information from the bill (such as CDR provided data). The current process is manual and therefore heavily resource intensive. This would not be practical for the purposes of CDR. • It may be more appropriate to amend this to ***account summary*** which contains key bill information including the bill period and amount. We are happy to work with Treasury to refine and get billing data set appropriately defined. For instance, we can provide a copy of an example account summary or provide an overview of the billing process.

	• Given there is also a metering data and product data set, what else would they want from a bill apart from how much has been paid - the ADR can then match product, metering and billing payment data up to compare and contrast. This is another reason why metering should be from a retailer.
(b) payment or transaction made in relation to the arrangement	• It is unclear what level of detail is intended to be captured with this subsection. The current language would suggest a Y/N response, would this include a date for the transaction? • It would be useful if Treasury can provide further information on whether this would include customer payment arrangements (e.g. where the customer has successfully applied for a payment extension, delay or payment plan such as bill smoothing). This seems significantly further in scope then the banking draft designation instrument as does subsections (f) and (g). This type of data may create a complicated implementation for version 1 of CDR.
(c) an account held by the customer	• Recommend this be made clear to relate to the account number or account reference by the retailer.
(d) an authorisation given by the customer or associate in connection with the account.	• Authorisation information does not belong under billing data as it is not related to retailer billing information. While our initial thought is that this is an authorisation given by the customer and could therefore sit under section 7 (customer provided), we note it is a more complicated matter than this. • It is important that a final position is agreed upon regarding who owns the authorisation data – is it the customer (account owner) providing that information, or is it the person that has been authorised on the account? This may otherwise be sensitive or personal information about an individual which may introduce their own rights and protections.
(e) payment method used for the account	• We recommend this be combined with 8(3)(b), as payment method and payment/transaction made in relation to the arrangement are connected, particularly as the payment method could change with each transaction. • Greater clarity on the intent of this data set would be appreciated. Does the DI intend this to be limited to flagging how the customer paid (e.g. Debit Y/N, BPAY Y/N etc) or include the details of that method (e.g. their card number). The latter would introduce greater privacy risks and difficulty from a data security and management perspective, and we are not sure what benefits it would deliver. • We note that if the payment method used is being proposed as a data set as it may be linked to the customer's access to their current arrangement (e.g. that the customer must pay by debit to be eligible for the plan) this information would be already be provided in the *eligibility* sub-section of section 9.
(f) concessional measures in respect of a customer experiencing hardship	• This has not previously been suggested as a priority data set and does not necessarily integrate with billing data information. This is much broader than proposed in the HoustonKemp report. • Does this extend to retailer provided benefits such as debt waiver, payment matching arrangements, energy audits? It would be useful for Treasury to provide further information about what is intended to be

	captured with concessional measures. Once it is clear they type of data intended to be captured, it would easier to assess whether it belongs in the billing or customer provided data set. • Importantly, before designating this type of data it is critical to assess whether this data will support or hinder the consumer using the CDR for its intended purpose. For example, AGL considers that concessional measures as outlined above could pose an unnecessary risk of exclusion or discrimination against a customer.
(g) any other payment or concession provided to a customer in connection with the arrangement	• It is not clear what the scope of this data point is in relation to the CDR energy objective or whether this is related to sub-section (f) for customers experiencing hardship. The explanatory note provides no additional context. • Is this intended to be a Y/N? Is this a point in time? We note that customers can move in and out of eligibility for concessions and as a result a point in time record (e.g. as of the day of the CDR data request) is the most appropriate. Retailers do not retain previous concession eligibility information and to keep this would represent a costly IT solution. • **Concession information** - we note that retailers will have arrangements with each of these state programs that will vary the way information can be used. For example, both the Queensland Government and NSW Government have clauses that restrict the use of concession information for other purposes. The NSW program also states that retailers are required to protect the confidentiality of eligible customers to ensure that their records are not used for any purpose other than the **delivery of a social program for energy.**[26]
(h) a discount applied	• Would this be the dollar value or percentage applied?
(i) a break down of an amount charged under the arrangement.	• It is unclear what the objective is of this data set. • If it is intended to be a breakdown of separate line items, this would not make sense to third parties as the structure and storage is done in retailers' back end systems for the purposes of generating a bill. This information will not be meaningful outside of retailers' systems as it is not set up for customer information provision but rather backend process arrangements to support the production of a bill.

Recommendations for Billing

- Clarify the type of data required from billing to only capture general invoicing information (e.g. *bill issued* to account summary/bill overview).
- Move 8(3)(d) on authorisations under customer provided data (this is not a billing data set); pending a final decision on whose data the authorisation is.
- Review retailer obligations under state concession arrangements to confirm whether 8(3)(g) is appropriate / possible.
- Combine 8(3)(b) and 8(3)(e) regarding payment method and transaction.

[26] See NSW Social Programs for Energy Code

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Section 9 - Product information

Below we provide feedback on section 9 of the DI regarding product information for retailers; and the Australian Energy Regulator (AER) and the Department of Energy, Water, Land and Planning Victoria (DEWLP).

General drafting comments

We recommend redrafting sections 9 and 10 i in relation to the roles and effects of retailer and AER/DEWLP as data holders.

The draft DI approach has been to classify two distinct data sets – with distinct roles and data holders – into the one section of 'product information'. Then attempted to tailor the application of this with references such as 'new prospective' customers. We believe a more fit for purpose, future proof and user-friendly way of defining these sections would be as:

- **Section 9 – Product information (*offers*)**
  - This applies to both gas and electricity offers that are generally available.
  - This section applies to AER/DEWLP.
  - Would make clear that the term 'new prospective' applies to *offer* information.
  - Would help clarify the purpose of 9(4) and section 10.
- **Section 10 – Product information (*plan*)**
  - This applies to product information regarding the customers current arrangement.
  - This section applies to retailers.
  - This would be limited to electricity with the amended definition of arrangement recommended above.

This proposed structure will also assist any future amendments to the DI which may seek to expand categories of information on EME/VEC but does not impact retailer customer arrangements (or vice versa). It would also help shift away from CDR constructed terms such as 'tailored' product information which seems more appropriate for the banking sector.

Recommendations

- That retailer product information (plan) data and AER/DEWLP (offer) data be separated for ease of reading and for the purpose of any future amendments (e.g. additional fields required through EME are subject to CDR so DI is amended).

Product information – **Offers**

This section refers to product information that is held by AER/DEWLP.

The following comments are based on the current drafting of the DI and assumptions of the operation of the CDR for the purposes of product reference information.

Proposed scope broader than current energy obligations

Currently, published offers on the AER website EnergyMadeEasy (**EME**) and the DEWLP website Victorian Energy Compare (**VEC**) only display generally available offers. Retailers have obligations to

input both generally available offers and restricted plans[27] onto EME and VEC, but only generally available offers are displayed.[28]

We note that several stakeholders raised concerns regarding impacts on competition and innovation if restricted offers were required to be published, one stating "it is possible that retailers will simply withdraw these (plans) to avoid customer confusion and a negative experience. (Retention plans) are usually at a lower price because they only apply to a limited number of customers. For commercial reasons it is not viable for retailers to make these offers available to all customers.[29]

Due to the definition of product information (regarding offers that DEWLP and AER are responsible for), ADR's may be able to offer both the publicly displayed generally available offers as well as the restricted offers. If these restricted offers are subsequently published on an ADRs website, then the market confusion AER and DEWLP were seeking to avoid would occur.

We recommend that Treasury seek the same limitation in their drafting as the AER expressed in the Retail Pricing Information Guideline (**RPIG**), that a plan would be restricted if a customer could not easily acquire the characteristics or traits needed to be eligible (e.g. concession customers, plans tailored to a customer's specific circumstances, multi-site arrangements, plans only available for customers on a retailers hardship program.

This has happened in the banking sector through the ACCC Rules under Schedule 3 for banking which references product information that is publicly offered. A similar alignment to the energy sector's generally available definition would be appropriate.

Product information (if definition of arrangement is not limited)

We note that EME/VEC do not (and should not) support granular offer information for services outside of electricity and gas *(see above comments regarding the definition of arrangement).*

EME and VEC can support bundling with non-energy products as an eligibility criteria (e.g. *to be able to acquire this offer, the customer must also have a broadband service with AGL).* However, the specifics of that broadband service should not be provided through EME/VEC. We recommend that the CDR regime relies on appropriate sector designations (e.g. telecommunications industry being designated) to capture and expose any relevant non-energy services.

This issue will be resolved if Treasury take on board our recommendations to amend the definition of 'arrangement'.

Terms and conditions

Currently there is limited information that retailers provide through EME/VEC in the terms and conditions (**T&C**) section. This is largely due to character limitations that apply to these fields. As a rule of thumb, we refer the customer to our website or call centre for more information on our T&C. We will also provide limited specific information (such that prices may vary, days' notice given before a price variation, contract expiry, eligibility and credit/discount requirements).

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[27] See the definitions for these plans in the AER Retail Pricing Information Guideline

[28] With the exception of NECF jurisdictions where it must be provided to the customer if requested during the sales process.

[29] See Notice for the AER Retail Pricing Information Guideline 2018

Our broader T&C document is 52 pages and could not be included in these fields and would not be reasonable to provide through EME/VEC.[30] It also includes other information for our customers, including our customer charter (commitment to our customers), our privacy policy and dispute resolution process.

Use of product code

Note that this only came into effect from 1 January 2019 (not for data sets to July 2018). Also note that while the use of the code is required by RPIG re: offers for EME generated plans; it is not required for recording against a customer arrangement with the retailer.[31]

Product information - **Plans**

This section refers to product information that is held by a retailer and we offer two high level comments at this time:

- **Product information in retailer systems -** Retailers will encounter several issues in extracting what is deemed relevant customer product information. While a certain level of standardisation was introduced with the Default Market Offer (DMO) and Victorian Default Offer (VDO), older product construct and data collection is much more scattered and therefore difficult to tag and share. This is achievable but will require significant IT investment.
- **Eligibility criteria under customer current arrangement** – the draft DI will require retailer to provide information on eligibility criteria for customer current arrangements which will not likely deliver the intended outcomes for the following reasons:
  - There is no obligation for retailers to confirm customer eligibility for offers against external sources. Eligibility criteria assessments are dealt by retailers and third-party providers through commercial arrangements and therefore the accuracy and validity of this data will likely vary across the energy sector.
  - Customer eligibility can change over time. For example, at the time of sign-up with retailer A, the customer may have been a member of a club or held a certain characteristic at the time of going on the product, but this has since changed but the customer nevertheless remained on the product.

  It would not be appropriate to rely on the eligibility criteria for the purposes of assessing customer product eligibility and potential future switching (if write access is allowed under this regime) due to both the changing nature of customer eligibility and the varying standards of external verifications across participants, based on commercial arrangements.

[30] AGL terms and conditions can be accessed here
[31] See AER Notice of Compliance for the Retail Pricing Information Guideline issued January 2019