

A few
words.

COAG Energy Council Secretariat

Department of Environment

By email: EnergyCouncil@environment.gov.au

4 October 2016



Dear Energy Market Transformation Team,

Re Consumer Protections for Behind the Meter electricity supply

AGL welcomes the opportunity to respond to the Energy Market Transformation Team's (**EMTT**) *Consumer Protections for Behind the Meter electricity supply: consultation on regulatory implications (Consultation Paper)*, August 2016.

AGL is one of Australia's leading integrated energy companies and the largest ASX listed owner, operator and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources. AGL is also a significant retailer of energy, providing energy solutions to over 3.6 million customers throughout eastern Australia.

In 2015, AGL established a New Energy division, with a dedicated focus on distributed energy services and solutions. AGL New Energy works with customers of all sizes (residential, business and networks) to understand their energy requirements and design tailored solutions. We offer customers 'beyond the meter' energy solutions, new and emerging technologies including energy storage, electric vehicles, solar PV systems, digital meters through our ring-fenced subsidiary business Active Stream, and home energy management services delivered by digital applications. We are also working with customers to develop a network services capability involving load management solutions

The COAG Energy Council's (**Energy Council**) consideration of consumer protections for behind the meter (**BTM**) energy systems and services is timely. Evolving customer preferences are leading a transformation of the energy market. The availability and falling cost of distributed renewable energy sources and other technologies is enabling customers to exert greater control over their energy usage and demand improved services and a wider range of products from energy service providers.

Although energy remains an essential service, customers now have far greater choice as to how that service is delivered. A decade ago, the choice for customers was simply 'who' sold them energy. Now the choice is who and 'how' – how they will be supported by online services and flexible payment options, how they will combine grid supplied and distributed energy sources, how they expect to be able to monitor and control usage, and increasingly how they will share energy and share in value streams available beyond the home (e.g. network and wholesale values).

The Consultation Paper does well drawing out the key issues and the tensions (such as they exist) that must be addressed when designing a consumer protection regime that appropriately protects customers throughout the energy market transformation, without unnecessarily constraining market innovation or customer choice, and without imposing an asymmetrical regulatory burden on energy service providers that negatively impacts the competitive landscape. Getting the balance right will have a direct impact on the future development of the market for BTM systems and services.

In addition to the Energy Council's overarching objective (*to promote the long term interests of consumers with regard to the price, quality and reliability of electricity and gas services*), AGL considers that the following objectives should guide the development of an appropriate consumer protection regime for BTM systems and services:



- **Flexibility and customer choice:** the consumer protection framework should recognise that consumers are not homogenous but rather have their own distinct and unique preferences. The framework should be flexible enough to accommodate innovation in product and service provision (including the business or delivery model), and not constrain informed customer choice. Protections should be proportionate to the risk of harm occurring.
- **Contestability and competitive neutrality:** where possible competitive markets should be relied upon to facilitate the advancement of customer interests. The consumer protection framework should not by virtue of asymmetrical regulatory obligations inadvertently promote or predestine the success of some energy service providers over others. This is also important for avoiding inefficient grid deflection.
- **Participation:** the consumer protection framework should offer every consumer the opportunity to engage and obtain the benefits of competitive energy markets. Governments, the community sector and service providers have a shared responsibility for addressing customers in financial hardship.
- **Avoiding duplication:** the consumer protection framework for BTM systems and services should make effective use of existing consumer protection regimes (such as the Australian Consumer Law (**ACL**), jurisdictional fair trading laws and product and safety standards) and only supplement these with additional regulation where a genuine gap is identified.
- **National consistency:** the consumer protection framework should apply uniformly across jurisdictions so as to promote certainty and minimise regulatory overhead.

AGL agrees with the EMTT that the current inquiry should take an evidence-based approach to assessing the risk of harm to consumers from BTM systems and services and avoid duplicating existing consumer protection frameworks. New regulation should only be introduced where a genuine gap is identified which is unlikely to be managed through other forces (such as market competition including, for example, market-based risk management products), and should be proportionate to the risk of harm occurring so as to avoid unnecessarily constraining market innovation and customer choice.

AGL's responses to the specific discussion points are set out in the Attachment.

Should you have any questions in relation to this submission, please contact Eleanor McCracken-Hewson, Policy and Regulatory Manager, New Energy, on 03 8633 7252 or myself on 03 8633 6836. Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Stephanie Bashir', is written over a light blue circular stamp.

Stephanie Bashir

Head of Policy & Regulation New Energy

Attachment: responses to individual discussion points

What objectives, beyond the Energy Council's general objective, should be held in mind in addressing regulatory arrangements for behind the meter electricity systems?

AGL notes that the Energy Council must undertake this consultation with a view to its overarching objective – namely:

The promotion of the long term interests of consumers with regard to the price, quality and reliability of electricity and gas services.

While this remains a sound overarching objective, it must be born in mind that this objective was articulated at a time when a linear electricity supply chain was the dominant (or sole) reality and customers did not have the same choices they have today to diversify their electricity supply by supplementing (or entirely replacing) grid electricity with their own BTM embedded generation and battery storage systems.

These new circumstances may require some reinterpretation of the various components of the overarching objective. For example, the long term interests of consumers with regard to reliability may no longer be best served by simply determining, on their behalf, the required level of reliability for electricity supply. It might rather allow customers to decide what value they themselves place on reliability (and other factors such as cost, energy 'independence', and environmental impact) and allow them to enter into arrangements for BTM systems and services to suit those preferences. Ensuring these choices are made on a fully informed basis – a theme that is returned to throughout this submission – would be of utmost importance.

Similarly, it is generally accepted that the long term interests of consumers with regard to price is best served by encouraging competition where competition is feasible. This means that the regulatory framework will need to recognise that competition will now be between energy service providers potentially operating under quite different business models and utilising a whole range of technologies and means to deliver energy services to customers. This presents the challenge of designing a consumer protection framework that has the flexibility to accommodate the emergence of new products and services and as far as possible avoids imposing an asymmetrical regulatory burden on different energy service providers that negatively impacts the competitive landscape.

In addition to the Energy Council's overarching objective, AGL considers the following objectives are important when addressing regulatory arrangements for BTM installations:

- **Flexibility and customer choice:** the consumer protection framework should recognise that consumers are not homogenous but rather have their own distinct and unique preferences. The framework should be flexible enough to accommodate innovation in product and service provision (including the business or delivery model), and not constrain informed customer choice.
- **Contestability and competitive neutrality:** where possible competitive markets should be relied upon to facilitate the advancement of customer interests. The consumer protection framework should not by virtue of asymmetrical regulatory obligations inadvertently promote or predestine the success of some energy service providers over others. This is also important for avoiding inefficient grid deflection.
- **Participation:** the consumer protection framework should offer every consumer the opportunity to engage and obtain the benefits of competitive energy markets. Governments, the community sector and service providers have a shared responsibility for addressing customers in financial hardship.
- **Avoiding duplication:** the consumer protection framework for BTM systems and services should make effective use of existing consumer protection regimes (such as the ACL, jurisdictional fair trading laws and product and safety standards) and only supplement these with additional regulation where a genuine gap is identified.
- **National consistency:** the consumer protection framework should apply uniformly across jurisdictions so as to promote certainty and minimise regulatory overhead.

AGL agrees with the EMTT that the current inquiry should take an evidence-based approach to assessing the risk of harm to consumers from BTM systems and services and avoid duplicating existing consumer protection frameworks. New regulation should only be introduced where a genuine gap is identified which is unlikely to be managed through other forces (such as market competition including, for example, market-based risk management products), and should be proportionate to the risk of harm occurring so as to avoid unnecessarily constraining market innovation and customer choice.



Is the behind the meter electricity system definition appropriate for our purposes?

In defining a behind the meter system, is it important to consider other factors about the system such as:

- a) the ownership model**
- b) the role of the system**
- c) the number of customer's supplied.**

Is it important to consider behind the meter electricity systems for small and large customers for our purposes?

The proposed definition of a BTM electricity system seems appropriate for the purposes of the current inquiry. The ownership model, role of the system and number of customers supplied will each impact on the nature and extent of potential for customer detriment. But so will each of these factors offer different benefits to customers. They are all also covered to varying degrees by existing consumer protection regimes – such as the ACL, and jurisdictional fair trading laws. The impacts of each of these factors (ownership model, role of the system) is discussed in more detail in the answers to the discussion points which follow.

The consumer protection framework will need to be flexible enough to accommodate the multitude of different deployment and operation models that emerge. The current inquiry should take an evidence-based approach to assessing the risk of harm to consumers from different deployment models and avoid duplicating existing consumer protection frameworks. New regulation should only be introduced where a genuine gap is identified which is unlikely to be managed through other forces.

The current retail energy consumer protection regime applies differently to small and large customers on the basis that the latter are inherently more sophisticated and possess greater equality of bargaining power. Similarly the ACL applies differently to customers with different characteristics (for example, the unfair contract terms regime applies only to acquisitions for personal, domestic or household use). In AGL's view, the same approach should be adopted for BTM systems and services and the current inquiry should focus on small customers.

Are there any unique regulatory challenges that are presented by the different deployment scenarios?

There will be different regulatory challenges and treatments of consumer protection issues in the four deployment scenarios identified, and the treatment may become more complex the closer the BTM energy system moves towards being a complete or partial substitute for traditional grid-supplied energy.

1. Emergency back-up

In these situations the customer, for unique reasons, requires a higher degree of reliability than the electricity law prescribes – i.e. 100% reliability or close to this. It is appropriate that general electricity law not prescribe this level due to the significant costs that would be involved in achieving a level that the vast majority of customers do not need.

The customer in these cases requires that the BTM emergency back-up system be fit-for-purpose, reliable and safe, and that dispute resolution avenues are available if required. All of these protections are already provided under general consumer law (ACL, jurisdictional fair trading laws, product and safety standards). Price regulation is not required as the customer can negotiate with competing providers.

The emergency back-up supply is not intended to compete with grid-supplied electricity provision, thus competitive neutrality issues do not arise.

2. Temporary electricity supply

BTM electricity supply in these cases is focussed on meeting temporary and often discretionary needs.

The customer requires similar consumer protections to those required in the case of emergency back-up and, similarly, existing consumer protections provided under general consumer law will adequately address supply in these situations.



3. Co-optimised electricity supply

In these situations, a customer will be obtaining electricity supply from a licenced electricity retailer, as well as either an exempt entity (e.g. solar PPA provider) or their own embedded generation installation.

Interrelated regulatory challenges include:

- Ensuring the customer understands that there are different consumer protections available in respect of each component of the energy supply, and thus that the customer diversifies their electricity supply on a fully informed basis;
- Recognising that asymmetrical regulatory obligations can impact the relative competitiveness of different sources of electricity supply. If not managed, this might inadvertently lead to inefficient grid defection. This occurs where the relative costs of different sources of energy supply are disproportionately impacted by the regulatory burden attaching to each, rather than underlying supply costs. The impact becomes more acute as traditional grid supplied energy delivers a decreasing portion of the customer's overall electricity needs.

Importantly, recognising this dilemma should not lead to a conclusion that BTM energy service providers should therefore be burdened with the same regulatory obligations as traditional electricity retailers. But it does strongly suggest that the obligations on traditional electricity retailers should be re-examined to ensure they are targeted and proportionate to the risk of harm, and to remove duplication with generally available consumer law protections.

The current consumer protection framework that applies to grid-supplied energy was developed some 15 years ago. As already discussed, the energy consumer has changed and the growth of the prosumer, means the current consumer protections may no longer be 'fit for purpose'. Hence, AGL would urge the Energy Council to simultaneously consider the appropriate consumer protection framework for both BTM and grid-supplied energy services.

- Ensuring the regulatory regime is flexible enough to accommodate innovation in product and service provision (including innovation in business or delivery model). An overly prescriptive and burdensome regulatory framework may act as a barrier to entry for new energy service providers and make the provision of novel energy products and services uneconomic despite being of real value to consumers.
- Permitting fully informed consumers to make decisions about their energy supply, even where this results in a departure from the full suite of protections that would be available for grid-supplied energy.

4. Primary electricity supply (complete or substantial grid defection)

As with the above scenarios, there are already consumer protections which apply in this scenario. If the BTM system involved has been purchased outright then general consumer laws will apply. Alternatively an exempt seller offering energy under a power purchase agreement (**PPA**) model could be involved, with that exempt seller bearing the risk of poor system operation. Australian standards for product safety and installation will also apply in both cases. However energy specific consumer protections will not generally apply.

The key regulatory challenge then is determining whether there is a core set of consumer protections that should apply to any provider of primary electricity supply. Core protections might include (for example) detailed disclosure requirements, access to dispute resolution and a right to reconnect to the interconnected electricity system. There would need to be an assessment

undertaken to determine the extent to which these protections are already provided by other existing legislative frameworks, such as the ACL.

If a core set of consumer protections are deemed appropriate in these cases, then the regulatory challenge which follows involves determining who has the obligation to provide those protections and how, practically, they will do so. For example, a right to reconnect to the grid would necessarily fall to a distribution network service provider (**DNSP**) to fulfil, but the question is how the costs of that reconnection should be recovered and whether the DNSP has any obligation to reserve capacity on the network for the event that a customer chooses to reconnect.



Are there any unique regulatory challenges or consumer protection issues that are presented by the different ownership models?

There are inherently different risks associated with different ownership models identified and each model also offers the customer different benefits. They are all also covered to varying degrees by existing consumer protection regimes – such as the ACL, jurisdictional fair trading laws and retail energy law.

1. Consumer hire model (short term)

BTM electricity supply in these cases is focussed on meeting temporary and often discretionary needs. Existing consumer protections provided under general consumer law will adequately address supply in these situations.

2. Consumer ownership model

An upfront purchase of a solar system requires an upfront capital outlay but no ongoing financial commitment. The risk of poor system operation or even failure is managed by general consumer law and product warranties. If the system is purchased under finance, then the customer will benefit from consumer laws around financing and debt collection.

3. Power purchase model

There are significant benefits available to a customer who purchases electricity under a PPA model. The customer avoids an upfront capital outlay, benefits from electricity rates that are cheaper than grid supplied energy and the PPA provider carries the risk of poor system operation or failure. The PPA model does, however, involve a longer term commitment for the purchase of the BTM system's generation output.

It does not necessarily follow that specific regulatory attention is required. The financed purchase of other goods (such as automobiles, or even solar systems) will also involve regular sums paid over an extended period of time. Assuming the customer remains connected to the grid then, in the worst case, if non-payment led to disconnection or removal of the BTM system the customer would still have access to electricity via the grid and a traditional electricity retailer.

However, this does lead to similar issues to those discussed above around competitive neutrality and regulatory arbitrage. The customer might choose to accrue a debt with its licenced retailer in the knowledge that the retailer has obligations around financial hardship, which its PPA provider does not. If this issue became pronounced, traditional electricity retailers might find themselves carrying a far greater debt burden than their competitors providing BTM energy services, with these higher costs in turn making the retailer's services less competitive.

As above, recognising this issue should not necessarily lead to a conclusion that PPA providers should have the same obligations around customer hardship as licenced retailers. The PPA is responding to customer demand in the market and customer uptake and response has been very positive. A heavy handed regulatory approach to consumer protection may inadvertently impact market innovation and the ongoing availability of these products. To date, existing consumer protections applying to PPAs have proven adequate. However, these circumstances may suggest that a fresh look is required at how energy service providers, governments and the community sector should share responsibility for ensuring customers in financial hardship stay connected to essential energy supply.

4. Landlord model

This situation bears some similarities to the issues arising in the case of embedded network customers (for example, degree of choice exercised by the tenant in

entering the arrangement, obligations around billing and payment). These could be addressed as conditions applied by the relevant regulator (Australian Energy Regulator (**AER**) or jurisdictional regulator) when approving the exempt selling arrangement.



What are the issues for behind the meter electricity systems and competitive neutrality?

Could different regulatory environments for consumer protections associated with electricity supply products and services be justified based on:

- a) the service provided?**
- b) the ownership model?**
- c) other?**

Are there particular consumer protections that need to be consistent for competition or to protect a consumer harm that has the potential to arise in all circumstances, for example dispute resolution?

How can we ensure that regulatory requirements to provide consumer protections are imposed on the appropriate party?

As noted in the Consultation Paper, the consumer protection framework must appropriately balance addressing consumer harm, while not imposing unnecessary compliance burden or impacting effective competition and market innovation. Effective competition advances the consumer interest in terms of lower prices, a higher standard of service and innovation in product and service offerings.

As mentioned earlier in this submission, issues around maintaining a competitively neutral landscape become more pronounced the closer a BTM energy service moves towards being a complete or partial substitute for traditional grid-supplied energy. To reiterate, these challenges include:

- Recognising that asymmetrical regulatory obligations can impact the relative competitiveness of different sources of electricity supply. If not managed, this might inadvertently lead to inefficient grid defection. This occurs where the relative costs of different sources of energy supply are disproportionately impacted by the regulatory burden attaching to each, rather than underlying supply costs. The impact becomes more acute as traditional grid supplied energy delivers a decreasing portion of the customer's overall electricity needs.

Importantly, recognising this dilemma should not lead to a conclusion that BTM energy service providers should therefore be burdened with the same regulatory obligations as traditional electricity retailers. But it does strongly suggest that the obligations on traditional electricity retailers should be re-examined to ensure they are targeted and proportionate to the risk of harm, and to remove duplication with generally available consumer law protections.

- Ensuring the regulatory regime is flexible enough to accommodate innovation in product and service provision (including innovation in business or delivery model). An overly prescriptive and burdensome regulatory framework may act as a barrier to entry for new energy service providers and make the provision of novel energy products and services uneconomic despite being of real value to consumers.
- Recognising that greater competition translates into greater customer choice. And customer choice itself requires permitting fully informed consumers to make decisions about their energy supply, even where this results in a departure from the full suite of protections that would be available for grid-supplied energy.

Do you agree that risks of this nature may exist to consumers of behind the meter electricity systems?

Do you believe consumers would receive sufficient information to enable them to make considered decisions regarding behind the meter electricity systems? Or are consumer protections required regarding information provision?

Should there be further information provided to consumers if they are only reducing their reliance on the network (considering this did not happen for solar customers)? Should this be different if the electricity system completely removes the consumer from the grid?

What information should be provided to consumers regarding the nature of behind the meter electricity systems, before signing up to them? Does this level of information change as product offerings become more complex?

Does the business model under which the behind the meter system was acquired impact on the information provided to the customer?

Do you consider that consumers of all behind the meter supply electricity systems should be given clear information about the implications of their supply choice, including clearly demarcating the protections available under the NECF for grid supply?

Do stakeholders believe consumers could be provided with a behind the meter electricity system without their consent?

AGL agrees that information provision / disclosure is a key consumer protection, particularly in light of the long-lived nature of certain BTM installations and the importance of high quality and reliable energy supply. A well-functioning competitive market also requires well informed, and thereby empowered, customers.

The level of information required will naturally depend on the complexity of the BTM product or service and the degree to which it is intended to replace grid-supplied energy. Rather than prescribing in regulations what specifically needs to be disclosed, it is more practical for information disclosure obligations to be more generally described and focus on what is necessary in the particular circumstances. As discussed above, to the extent the ACL or other more generally applicable consumer law already requires this disclosure, then duplication in an energy-specific framework should be avoided.

There may be some (manageable) challenges associated with obligations for the provision of information – for example, where a customer obtains various BTM components from different suppliers none of whom know that the customer’s overall intention is to then disconnect from the interconnected electricity system.

AGL does not consider it appropriate to provide consumers with BTM electricity systems without their consent.

Is the right to access the interconnected electricity system a sufficient consumer protection to ensure consumers have access to electricity supply?

Where a customer has chosen to disconnect from the interconnected electricity system, which party should bear the costs associated with the customer reconnecting to the interconnected electricity system?

Do you consider that determining the level of redundancy incorporated in a behind the meter electricity system is a matter to be determined by the consumer?

What, if any, consumer protections should apply in relation to the availability and reliability of behind the meter products and services?

AGL considers that a right to access the interconnected electricity system is a necessary, but not wholly sufficient, protection to ensure consumers have access to electricity supply. It should also be accompanied by disclosure of the potential costs of reconnecting (that is, before the decision to disconnect is made).

Where a customer has chosen, on a fully informed basis, to disconnect from the interconnected electricity system, then that customer should in most cases also bear the cost of reconnecting. Purchasers of premises that have been disconnected from the interconnected electricity system, would need to factor reconnection costs into the purchase price offered. The AER would need to ensure the economic regulatory framework produces reconnection costs that are fair and reasonable.

AGL agrees that determining the level of redundancy incorporated into a BTM system is ultimately a matter to be determined by the customer given the correlation between increased redundancy and increased costs. However, customers considering disconnecting from the interconnected electricity system should potentially be advised to obtain independent advice on this question given its complexity and the potentially serious consequences of insufficient redundancy. This would be similar to the regime applying to entry into certain financial products, where independent legal or financial advice is recommended.

Customers should be informed of the availability and reliability of BTM products and services. Minimum reliability requirements may also be built into relevant Australian



product standards for BTM systems. No further consumer protections should apply in relation to the availability and reliability of BTM products and services on the basis that fully informed customers should be permitted to decide what value they themselves place on reliability (and other factors such as cost, energy 'independence', and environmental impact) and allow them to enter into arrangements for BTM systems and services to suit those preferences.



Are there classes of vulnerable consumers in relation to behind the meter electricity systems? What do these classes of vulnerable consumers look like? At what point does a consumer become vulnerable?

What consumer protections are needed for these identified classes of vulnerable consumer?

Life events that cause customers to become vulnerable and fall into financial hardship are often unforeseen. A customer may not have been 'vulnerable' at the time they entered into an arrangement for a BTM system, but later becomes so. In many cases, BTM systems will assist a customer to manage a subsequent period of financial hardship. For example, a solar system which was purchased outright will reduce the customer's future energy demand from the grid and thereby lower their electricity bills. Similarly a solar PPA will offer the customer lower rates than grid-supplied energy.

A key protection for all consumers – but particularly those who are already vulnerable at the time they are considering a BTM product – will be information disclosure and ensuring the customer understands that there are different consumer protections available depending on the source of their energy supply.

With customers taking a decreasing proportion of their energy supply from the grid and increasingly relying on grid-supplied energy as only a back-up service, AGL considers that a fresh look is also required at how governments, the community sector and service providers should share responsibility for ensuring customers in financial hardship stay connected to essential energy supply.

Should consumers with behind the meter electricity systems have access to an independent dispute resolution scheme?

How should the costs associated with the scheme be allocated?

Are there benefits in a consistent dispute resolution scheme (i.e. an Ombudsman scheme) applying across grid connected and behind the meter arrangements?

AGL considers that customers with BTM systems should have access to dispute resolution. How that is most efficiently and appropriately provided needs to be further considered and will likely relate to the type and source of protections provided to the customer – for example, whether these apply under consumer law, tenancy law, safety law etc. Once the overall consumer protection framework is settled it would be beneficial to undertake further assessment of the options for and issues with different frameworks for dispute resolution.

Should a regulated service be provided to small consumers to enable them to compare prices for similar behind the meter electricity systems?

Should all similar behind the meter products have standard contracts in place?

AGL is firmly against regulating or standardising the features of BTM systems and services. The market for BTM systems and services is in a period of rapid transformation and growth. It is impossible to predict the range of products and services that will enter the market in the coming years, and we would expect them to increasingly integrate a range of technologies and services. It is important that service providers have the agility to respond to changing customer preferences and to leverage new or improved technologies as they enter the market.

Against this background, any attempt to regulate service offerings would work against the customer interest. It would be highly detrimental to product and service innovation, and the costs of those products and services.

The entry of BTM products and services is offering new competition to grid supplied energy, which should lessen the need for regulation overall as competition is expected to lead to lower prices and improved services to customers. The consumer protection framework should ensure customers are adequately protected according to the risk of harm occurring without unnecessarily constraining market innovation or customer choice.

Of the various issues raised in this paper, which areas have the highest risks and should be prioritised?

Is there potential for consumer harm that has not been identified in this paper which warrants regulated consumer protection?

AGL supports the Energy Council (and the EMTT) taking an evidence-based approach to assessing the consumer protection framework for customers choosing to take-up BTM systems. Given the rapid evolution of the market for BTM systems, it is critical that the consumer protection regulatory framework does not unnecessarily constrain market innovation or customer choice. An overly prescriptive and burdensome regulatory framework may act as a barrier to entry for new energy service providers and make the provision of novel energy products and services uneconomic despite being of real value to consumers.

BTM systems are not being installed in a regulatory vacuum. On the contrary, there are strong protections afforded to customers under general consumer law (ACL and state-based fair trading schemes), together with product and installation standards in force or under development. The energy retail law's exemption framework is another avenue for regulatory oversight of BTM developments. New regulation should only be introduced where a genuine gap is identified which is unlikely to be managed through other forces (such as market competition).

Importantly, the consumer protection framework should recognise the right of fully informed consumers to make decisions about their energy supply, even where this results in a departure from the full suite of protections that would be available for grid-supplied energy.

