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The Treasury and

The COAG Energy Council

At data@treasury.gov.au and energycouncil@environment.gov.au

Submission to the Consultation Paper on Facilitating Access to Consumer Energy Data

Thank you for the opportunity to comment on the Consultation Paper.

We share a specific research interest in consumer's deriving benefits from the energy data that they themselves generate as enabled through the roll out of smart meters. This research has benefitted from funding from the Carlton Connective Initiative at the University of Melbourne and now the Energy Transition Hub, also at the University of Melbourne.

For us, the key question is what would a consumer-centred or consumer-focused model for energy data access look like?

Advanced meters, popularly called 'smart meters', can yield information to consumers that, in the right format and with the right presentation/interface, can help with decision-making around energy use, tariffs, technology upgrades, energy management services and behavior change. Third parties have an important role to play in providing the above-mentioned services. Access to useful data-driven information, both by consumers and third parties, can unlock significant consumer and social benefits in a decarbonising world.

However, enhanced access to consumption data also has risks. In particular, the extraction of value by commercial entities with a lack of corresponding consumer benefits; breaches of consumer privacy; and the uneven distribution of benefits across socio-economic consumer groups creating winners and losers.

It is critical that, before we consider reform proposals, we understand the nature of the problem. We agree with the Houston Kemp report that third parties should have a right to access consumers' energy consumption data on behalf of consumers, and for data to be both useful and accessible. We note that under the National Energy Retailer Rules consumers already have access to their data. The problems are that:

- a) Most consumers are unaware they can access their data
- b) Consumers lack the independent user-friendly tools that provide timely information and give consumers choices about the cheapest tariff options
- c) Third parties cannot access the consumer's data free of charge

The key question for this submission is whether the planned access regimes address the above problems in the simplest and cheapest way *from a consumer perspective*. The other question is about the consumer risks leading to consumer detriment that could emerge from the proposed new regimes.

We are particularly keen to see the simplest and safest approach to achieve the objective of deriving consumer benefits from metering services and data generation. The Open Banking Review into Consumer Data Rights (CDR) and the Houston Kemp (HK) report could create new regimes of software development and technical protocols based on engineering expertise that could (unwittingly) lose sight of the ultimate beneficiaries of this system – consumers – in particular vulnerable consumers of an essential service. We caution against complex and expensive integrated rights based frameworks that are at risk of failing to deliver the required outcomes, because the key consumer behavioural aspects are not front and centre of the discussion.

Lack of awareness of option to access data: Taking account of vulnerability

There is significant variation in customer engagement on electricity. There are highly active energy consumers. For example, a proactive consumer or ‘prosumer’, who generates their own power, is interested in interacting with the grid to sell power, and may wish to be increasingly less grid dependent if not defect off-grid altogether. For many others, energy has traditionally been and continues to be, a low engagement commodity purchase. Victoria has an excellent tariff comparison tool (SwitchOn) and every household has a smart meter which enables easy access to timely data, but still only 25% of households switch on a regular basis (AEMC 2016, p. 24). Until recently there has been little focus on energy services and, despite significant retail competition, the provision of electricity has been a fairly homogenous service. Passive customers simply want a continuous and reliable electricity supply and do not want to think actively about the price, terms and conditions of supply. These customers are very valuable to retailers because they have low rates of defection, do not seek out the lowest tariff, and are often cross-subsidising other customers by paying well above the competitive market rate. There are behavioural dimensions, lifestyle and built environment factors that strongly influence the extent to which customers can and will engage on energy.

Effective communication and education strategies will be needed to build consumer confidence so that consumers utilise the potential of new products and services offered by the market. Consumers need *information*, such as adequate sites to enable comparison and switching between producers; they need *tools* such as advanced metering, battery storage, microgeneration, smart devices, and connected home products and services; and they need *a reason to be engaged* - the price they pay for energy ought to reflect the cost of supplying them, as individuals (John Pierce Speech 19 Sept 2014). Enhanced consumer engagement will require action by governments, retailers, networks, consumers and community organisations and should occur as an integral part of metering services reforms.

Electricity is an essential service - a fundamental enabling service that underpins wellbeing and quality of life across society. The uneven access to data will create new opportunities for some consumers whilst leaving others behind. A CDR or enhanced data access can create a new market in metering services and third party energy services. We are concerned about vulnerable consumers in these

emerging markets. Vulnerability can make it harder for consumers to engage with the market in the first place. Additionally, involvement with a new market can also increase vulnerability. For example, customers who lack financial and digital literacy can make poor choices and become worse off when they try to engage with the retail market.

Retailers have no incentives to promote use of tariff comparison tools with a likely outcome of comparing retailer tariffs being a decision to switch retailer. Given that information is a basic precondition for enabling customer benefits from an essential service, we consider that this cannot be left to the market eg commercial tariff comparison sites.

We argue that a sophisticated and targeted consumer-focused education campaign should be the first step in enabling consumers have greater use of their energy data. The COAG Energy Council and officials should develop a consistent and simple communications package around switching and saving for all households, and the value of smart meters should they decide to take them up.

The campaign should develop targeted communications for vulnerable consumer groups who face barriers to retail market engagement and the uptake of smart meters. These include the elderly, regional/rural households, consumers with intellectual disabilities, and those with English language difficulties.

Independent user-friendly tariff comparison tools

Under the NERR the process for requesting consumption data is cumbersome, discouraging consumers from making the request. Once obtained, the consumption data are not presented in a simple consumer-friendly format. Limited tools are provided to assist consumers to help understand and interpret their data.

There is no user-friendly independent platform that enables customers to compare tariffs and services. The Australian Government's existing *Energy Made Easy* tariff comparison website does not allow consumers to use their smart meter data to accurately compare available tariffs; in contrast, the Victorian Government's *SwitchOn* tariff comparison website does. A further failing of the *Energy Made Easy* website is that it does not support solar customers and needs to be updated to allow consumers to compare additional services that may be offered by retailers in the future. We note *Energy Made Easy* is currently subject to a rebuild and that these issues are being discussed.

Australia has not adopted the USA's *Green Button* initiative. This gives consumers simple access to their meter data in a standard format. More usefully, in some USA jurisdictions the *Green Button* initiative allows consumers to grant third parties access to their meter data. These third parties can then offer value-added services, for example regularly comparing electricity tariffs to confirm the consumer is on the cheapest tariff. In the AEMC smart meter rollout there is little incentive for retailers to help consumers find cheaper tariffs. We note that there are proposals tabled to facilitate access to meter data along the lines of the *Green Button* initiative (ECA 2017).

Lack of access by third parties to consumer energy data and the data privacy issues

Both the HK regime and the CDR if implemented will effectively create a platform that takes data generated by households through the performance of everyday social activities and make this 'raw data' available to third parties to access, subject to checks and balances, in particular requirements around accreditation and consent. Third parties could be commercial (eg energy service providers), municipal (eg authorities seeking to enhance the urban fabric) or citizen-generated (eg not for profit sharing groups).

Granting of free and informed consent by consumers to third parties to access their metering data is key to enabling consumer benefits – both individual and societal - to flow. At the same time, there are serious concerns about the protection of consumers' privacy, in an age where household consumption data can be used to identify household behaviour. This conflict between facilitating the the most simple process for third party authorisation in order to enable consumer benefits on the one hand and customer protection on the other hand is explored below.

We begin by asking, what would it take to grant third party access to data in a simple and cost effective manner that delivers consumer benefits and minimises consumer risks?

Cost-Effectiveness

The NERR allows retailers to charge a third party for access to their data. As a result, a retailer can set fees at such a level that makes the third party's service offering uneconomic. Consumers ought to be able request third party access to their data on their behalf *free of charge*. This is a simple change to the rules that could then be enacted through a user-friendly automated tariff comparison service.

Simplicity

The use of the existing rules could avoid complex requirements for consumers to authorise third parties to access their data, and for third parties to meet accreditation standards. In energy, the majority of authorisations to third parties are likely to be low risk to consumers, usually one-off authorisations to access billing data that do not involve the release of confidential or sensitive information. There are already hundreds of small to medium scale energy-related providers who would benefit from enabling a simplified system of access to billing data. Such providers may struggle to meet the proposed accreditation requirements due to high transaction costs. It would be unfortunate if a complex accreditation regime unwittingly diminishes competition in the provision of energy services and becomes a disincentive to small-scale innovation.

Existing provisions under the National Energy Retail Law (NERL) specify how consumer consent can be given:

- In writing, signed by the customer;
- Verbally, provided it is evidenced in a way it can be verified; or
- By electronic communications generated by the consumer

The key issue is how to create user-friendly platforms that enable such consent to be given in a meaningful and timely manner and upholds privacy protections. The Open Banking Report suggest that

'Data recipients should ... provide the customer with a single screen or page summarising the possible uses to which their data could be put and allow customers to self-select the uses they agree to.' While this would promote transparency, the degree to which consumers know what they are agreeing to, and what risks they are accepting, is unclear. Further work is required to address the issue of consent to data use in an increasingly data rich and interconnected world.

Managing Privacy Risks

On the other hand, there may well be a range of contexts in which consumers face higher risks through data release to third parties. This could occur where energy data is combined with other forms of data (eg banking) in a way that reveals sensitive information and threatens their privacy, or where the release of data is not time-limited. We would strongly encourage the review to do further analysis on the factors and contexts that could increase privacy risks to consumers. Equipped with such an analysis, it would be wise to establish (limited) accreditation requirements for these contexts. In other words, we would imagine that the existing Rules are sufficient to handle the majority of situations, but that a minority of situations require a more stringent accreditation process, and the review should think more about the factors that might trigger this.

We would also add that certain consumers at certain times may be vulnerable or become vulnerable in the context of third party access to data. The differences in consumer engagement and vulnerability are absent from both reports, and urgently required further investigation. Certain data uses could exacerbate the vulnerability of certain consumers. Data collection could assist in "redlining", that is the creation of consumer profiles that makes them less desirable customers for particular services, leading to the emergence of a 'data-underclass' (<https://www.theguardian.com/media-network/2015/aug/03/smart-home-data-underclass-internet-of-things>). This is a particularly worrying development for an essential service such as energy, and warrants careful consideration of how to limit data repurposing across sectors to a consumer's detriment.

There needs to be much more nuanced thinking about the following:

- The nature of vulnerability in the context of new regimes of data access
- The appropriateness of existing customer protections in the context of new regimes of data access
- The need for new protections for vulnerable consumers in the context of new data access regimes
- The likelihood of 'redlining' of vulnerable consumers through the combination and repurposing of data across sectors

Conclusion

In conclusion, consumer data rights or access regimes for third parties should be carefully assessed from a consumer-centric perspective. This means drawing on the existing rules and processes to enable a simple process for customers who wish to release data to third parties. A more fine-grained approach to accreditation regimes, rather than the proposed one-size-fits-all, could help to strike the balance between innovation in third party energy services and consumer protection. In particular, Privacy Impact

Assessments could be used to assess the respective privacy risks associated with the release of particular data.

Additionally, there also needs to be more thought and targeted research into those situations in which the release of third party data can lead to consumer detriment particularly for vulnerable consumers, and to develop processes, such as accreditation, to manage these.

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Expertise:

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She recently co-authored the following report:

Chandrashekeran, S., Dufty, G., Gill, M., (February 2018) *Smarter Metering Policy: Getting The Framework Right For A Consumer-Focused Smart Meter Rollout*. *University of Melbourne*.

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