

Treasury
CDR Strategic Policy Unit
Data and Digital Policy Branch

Submitted via CDREngagement@treasury.gov.au

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Targeted consultation: a future approach to nominated representatives in energy

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission in response to Treasury's *Future Approach to Nominated Representatives in Energy* ('Consultation Paper').

The AEC is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

The AEC has extensively engaged with Treasury and other policymakers with respect to efforts to enhance the Consumer Data Right ('CDR') framework. Our members remain committed to supporting its continued development and effectiveness, and we welcome the intent to reduce friction within the nominated representative process. However, we do not believe it contributes to the low uptake of CDR by businesses.

In the AEC's view, the main barriers to low CDR uptake among businesses is the low use case value. Many larger businesses (i.e. C&I customers) fall outside the "generally available offers" of retailers and are instead receiving their energy supply through bespoke or negotiated contracts. This is often done through an intermediary meaning CDR data exchange is not relevant.

For smaller businesses, the existing processes for comparing and switching energy plans are easy to use. Customers can upload their bill to a comparator, such as government-run Energy Made Easy or Victorian Energy Compare, as well as various competitive options. Customers can likewise switch plans within their existing retailer should a 'better offer' be available, with this process being fairly straightforward.

Indeed, a key constraint lies in the current market environment shaped by regulatory interventions in energy pricing, most notably through the Default Market Offer (DMO) and Victorian Default Offer (VDO). From this, retail margins have been compressed, resulted in diminished scope for retailers to provide offerings with substantial price differential to customers. The resulting centralisation of pricing within the market has undermined the perceived value of switching for consumers. If the potential savings from switching are negligible or not easily understood, customers are unlikely to invest the time and effort required to change providers and therefore become further disengaged.

The AEC considers these broader factors are what contributes to low CDR usage, and that consequently, any amendments to the nominated representative process is not an immediate policy priority (at least as far as driving CDR uptake goes).

Notwithstanding that, the AEC strongly prefers Option1 and has made some specific comments on the two proposed options. We note that both options create some degree of misalignment with existing data holder processes, which will increase compliance costs. A future targeted workshop between Treasury, the Data Standards Body, and data holders may be helpful to brainstorm solutions to this.

Treasury option	AEC Response
<p>Option 1: Introduce a principles-based requirement to CDR Rules for energy retailers that are data holders to provide a process that is “prominently displayed and readily accessible, and simple and straightforward to use”.</p>	<p>This is the preferred AEC option because it is easier for most retailers to implement and reduces the privacy risk of incorrectly assuming that a contact is an authorised representative.</p> <p>Treasury should be aware of the following considerations:</p> <ul style="list-style-type: none"> • This option would still require additional resourcing for most retailers, but at much lower cost than option 2. Given the significant time and resourcing pressure, we would recommend that Treasury work with retailers to allow adequate time for implementation. • As noted in a previous submission to Treasury, our preference is for the online process to allow online administrators to be appointed as nominated representatives. This is to allow for a simple online form which the data holder can ensure an actioning process is developed to support. We would encourage the Treasury to develop regulations that are agnostic as to the mechanism these changes should occur through. • Maintaining a principles-based approach (e.g. phrasing like “reasonably accessible”) is preferred to prescription. • Guidance for the proposed principles-based regulation should be developed in consultation with data holders to ensure a straightforward and low-cost implementation.
<p>Option 2: Require energy providers to allow any individual with existing authority to view/access online account data on behalf of a non-individual or partnership account (outside the CDR) to consent and authorise data to be shared via the CDR for certain customers (such as ‘online’ or ‘small customers’). The principles-based rule in option 1 would apply for all other customers.</p>	<p>The AEC considers that the costs of option 2 outweigh the benefits because it:</p> <ul style="list-style-type: none"> • Does not address the problem of low business uptake, which is driven by structural factors rather than process friction. • May interact poorly with existing obligations such as processes to gain consent under the Privacy act. <p>However, the AEC acknowledges that some retailers which predominantly serve business customers see Option 2 as better aligned with their definition of a nominated representative.</p>

Any questions about this submission should be addressed to Braeden Keen by email to braeden.keen@energycouncil.com.au.

Yours sincerely,

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