

Senator Andrew Bragg
Chair
Select Committee on Financial Technology and Regulatory Technology
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Parliament House
Canberra ACT 2600

Submitted via email: fintech.sen@aph.gov.au

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RE: Select Committee on Financial Technology and Regulatory Technology

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission to the Department of the Senate's *Select Committee on Financial Technology and Regulatory Technology* ('Select Committee').

The AEC is the industry body representing 23 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

We provide this submission in response to the relevance of the Consumer Data ('CDR') to the regulatory framework of the FinTech and RegTech industries. The AEC has been an active stakeholder and participant in the CDR consultation process thus far for both banking and energy. We note that the Select Committee's Issues Paper concentrates on FinTech issues related to banking. This submission intends to inform the Committee of possible issues related to energy given it is next in line for implementation.

The AEC supports introducing the CDR into the energy sector and wider economy. It has the potential to enhance competition in the retail market and empower customers to make more informed choices. For the FinTech industry, the CDR provides an immense opportunity to provide more innovative products and services that improve the customer experience. Improving the customer experience is a principal objective of the CDR and this should be reflected in any recommendation the Select Committee publishes.

The AEC provides the following high-level comments noting that the CDR is not yet implemented in the energy sector and consultation on the legal and regulatory framework is still taking place. The outcomes of future consultation will impact how the CDR applies to energy.

Purpose of CDR

The Consumer Data Right Bill Explanatory Memorandum makes clear that the 'primary aim of the CDR is to give customers the ability to access and use more information about themselves, and about their use of goods and services' to make more informed choices.¹ In the context of the energy sector, the CDR can provide a customer with information about their energy usage, which they can use to make a commercial decision related to their energy consumption. This could include whether to remain with their current retailer or switch to another offer, or use the information to assess what type of solar system best suits their circumstances.

¹ Commonwealth of Australia, *Treasury Laws Amendment (Consumer Data Right) Bill 2019*, Explanatory Memorandum, House of Representatives, p5.

An auxiliary benefit of customers having access to such information is that it incentivises business to innovate and provide new services to customers. The CDR regulatory framework should support and encourage this, but only to the extent that it is consistent with the CDR's core purpose to enable better outcomes for customers. As the Second Reading speech states: 'the consumer data right is a right for customers to authorise data sharing and use. Consumers will determine which data is shared under the right, on what terms and with whom'.²

CDR in Energy

Initial consultation on the CDR in energy started in February when the ACCC asked for submissions on what energy data access model to use. This was identified as a threshold issue because determining the data access model is necessary before discussion about the rules, accreditation and data transfer processes can take place. Most stakeholders, including the AEC, submitted their preference for the AEMO Gateway Model, which would enable AEMO to act as a pipeline for the transfer of CDR data from data holders to accredited data recipients. This model was preferred because it takes into account the unique characteristics of the energy sector, namely the existence of a central market operator in AEMO, and seeks to leverage its existing data transfer infrastructure to ensure processes, such as accreditation, are efficient and result in least cost.

While the ACCC has since chosen to pursue the AEMO Gateway Model, we note that in submissions there was some divergence from the FinTech industry, which preferred an economy-wide model (i.e. what is used in banking). The ACCC ultimately rejected implementing the economy-wide model into the energy sector because it 'does not appropriately recognise the multitude of players in the industry', 'will result in the highest implementation costs' and 'impede speed of service to consumers'.³

The ACCC is now in the process of developing the rules that will govern the application of the CDR in energy. These rules will regulate areas of importance to the FinTech Industry, such as the customer authentication framework and obligations on data holders and accredited parties. It is probable that these rules will be released while the Select Committee is preparing its final report. We urge the Select Committee to be mindful of these rules when making any recommendations about the CDR and FinTech industry, to the extent that they might impact on the energy industry.

CDR Issues Identified in Issues Paper

The Issues Paper identifies some issues, namely accreditation costs and no 'write-access', as inhibiting the ability of FinTechs to fully take advantage of the CDR. These issues are described within the banking context. It is too early to tell whether the issue of high accreditation costs will apply to the energy sector. The Explanatory Memorandum places compliance costs for the banking sector at an average of \$86.6 million per year while for the energy sector it is an average of \$9.9 million per year.⁴ This indicates that compliance costs for accredited parties should not inhibit the growth of FinTech in energy.

That notwithstanding, the Committee should bear in mind that strict accreditation procedures exist to protect the privacy of the customer. These protections have not come about lightly and were subject to an independent, 167-page Privacy Impact Assessment to ensure the interests of all

² Commonwealth of Australia, *Treasury Laws Amendment (Consumer Data Right) Bill 2019*, Second Reading Speech (13 February 2019), House of Representatives, p2.

³ ACCC, *Consumer Data Right in Energy – Position Paper: Data Access Model for Energy Data*, August 2019, pp6-7.

⁴ Explanatory Memorandum at p3.

stakeholders are fairly balanced.⁵ Any view then to minimise compliance costs should not come as a result of weakening customer privacy protections.

The AEC also notes a question contained in the Issues Paper: *“Following the implementation of the CDR in the banking sector, how quickly should government seek to implement CDR reforms in related financial sectors, such as superannuation?”* We emphasise that any expansion of the CDR to other related financial sectors, such as superannuation, should be gradual to avoid rushing the phased implementation of CDR into energy and telecommunications. This phased approach is in place to provide regulators and industry with certainty going forward and to allocate resources accordingly. A rushed process will only lead to sub-optimal results for customers.

The AEC hopes this submission assists the Select Committee in understanding the intended operation of the CDR in energy and any impacts it may have on the FinTech industry.

Any questions about this submission should be addressed to Rhys Thomas, by email to Rhys.Thomas@energy.council.com.au or by telephone on (03) 9205 3111.

Yours sincerely,



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⁵ Department of the Treasury, *Consumer Data Right Regime Privacy Impact Assessment*, Maddocks, December 2019. http://treasury.gov.au/sites/default/files/2019-12/p2019-41016_PIA_final.pdf