

13 September 2021

Consumer Data Right Division  
Treasury  
Langton Cres  
Parkes ACT 2600

Via email to [data@treasury.gov.au](mailto:data@treasury.gov.au)

Dear Treasury,

**Re: Consumer Data Right rules amendments (version four)**

Simply Energy welcomes the opportunity to provide feedback on the exposure draft amendments to the Consumer Data Right (CDR) and the exposure draft regulations.

Simply Energy is a leading energy retailer with approximately 750,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a leading retailer focused on continual growth and development, Simply Energy supports the development of effective regulation to facilitate competition and positive consumer outcomes in the market.

Simply Energy's submission provides feedback on the proposed inclusion of large customers in the energy CDR, the staged application of the energy CDR rules, and highlights some concerns with the dispute resolution process for metering data requests.

**It should not be mandatory to include large customers in the first iteration of the energy CDR**

Simply Energy does not support Treasury's proposal to mandate all energy customers in the first iteration of the energy CDR. Specifically, Commercial and Industrial (C&I) customers (for example, large companies such as BHP and Visy) should initially be made optional or excluded from the energy CDR due to the unidentified benefits of their inclusion. Simply Energy proposes that Treasury uses the 'large customer' usage thresholds that apply in each jurisdiction to determine the customers included and excluded from the energy CDR. If Treasury does not agree with setting a usage threshold, Simply Energy urges Treasury to instead set a threshold based on another characteristic that would ensure that only relevant customers are included in the energy CDR (for example, only including customers who receive bundled pricing).

Simply Energy manages its C&I customers in a separate system than the one used for small customers (residential and small business). While we have not yet quantified the impact, we expect that the inclusion of C&I customers in the energy CDR could double Simply Energy's implementation costs of the CDR, with no known benefits for the C&I market.

Simply Energy expects that these implementation costs would not correspond with any significant benefits. The energy CDR appears to have limited potential use cases for C&I customers, at least at this initial stage of the CDR's development. Simply Energy suggests that Treasury could investigate whether C&I customers have benefited from their inclusion in the banking CDR. C&I customers are large and sophisticated businesses and have highly negotiated bespoke contracts in place with their energy retailer. Notably, C&I customers would not be able to access 'product data' through the CDR and would therefore not be able to use the CDR to compare offers between retailers. In addition,

the CDR data standards designed for energy customers are not fit-for-purpose for C&I customers, and more work is required in developing standards to make them compatible across the sector.

As C&I customers already have data access arrangements in place with their retailer, it is not clear what datasets these customers would benefit from. Simply Energy urges Treasury to engage with large customers before making a final decision to understand whether there are potential use cases that justify the implementation costs. It would be disappointing if Treasury were to impose significant costs on industry (and ultimately, all energy customers) without understanding whether their decision would have any benefits. The take-up of the banking CDR has been slow for mass-market customers (and presumably even slower for C&I customers), so there does not appear to be significant benefit in rushing to set up complex systems to enable C&I customers to access the energy CDR when it will be likely barely used (at least during the first iteration).

Simply Energy is also concerned that Treasury is deciding to include large customers in the energy CDR before resolving issues related to their inclusion. For example, the application of rules related to secondary users, joint accounts, and account privileges in a C&I context. There may also be issues in relation to large customers with multiple sites that are billed separately under a single account. Simply Energy also notes that large customers are not able to seek dispute resolution through jurisdictional energy ombudsman schemes because of their strong negotiation position.

Simply Energy urges Treasury to undertake an analysis of the costs and benefits of including large customers in the energy CDR. Having a transparent assessment of these costs and benefits will ensure that the best outcome for all energy customers is delivered.

In relation to the usage threshold to define a 'large customer', Simply Energy does not see any reason to deviate from the usage thresholds currently used in each jurisdiction. Under the energy rules, 'large customers' are not subject to the same regulations and protections as 'small customers' and retailers will have different processes and systems for each customer group. If Treasury were to include some 'large customers' in the energy CDR, this would require Simply Energy (and the majority of other smaller retailers with similar set-up) to incur unjustifiable costs of coordinating its separate C&I billing systems with the energy CDR systems.

### [The staged application of the CDR rules should enable tranche 2 retailers to go-live when ready](#)

Simply Energy supports its proposed inclusion in tranche two of the energy CDR rollout. Simply Energy has previously advised Treasury that it faces several factors that mean it would require at least 24 months to implement its CDR solution after the final rules are developed:

**[Note: Confidential information has been removed]**

While Simply Energy supports the proposed tranche 2 commencement date of 1 October 2023, the tranche 2 retailers should be allowed to enter the CDR market when their solution is ready. That is, the mandatory go-live date should be the last possible date for retailers to participate in the energy CDR. Providing this flexibility may enable more energy customers to access the benefits of the energy CDR before October 2023.

### [The rules require clearer oversight over AEMO's obligations and disputes related to AEMO data](#)

The proposed rules provide AEMO with the discretion to decide whether to disclose requested metering data and does not provide any requirement for AEMO to explain the reason for that decision. Simply Energy is concerned that there may be risks to retailers that arise from an AEMO decision to not disclose requested metering data. For example, are retailers at risk of breaching their obligations under rule 3.5 of the exposure draft rules if they are unable to disclose required consumer metering data because AEMO has decided not to disclose this data?

This goes to a broader point that retailers should not be put at risk of penalty if AEMO does not meet its obligations under the energy CDR. By excluding AEMO from civil penalties and dispute resolution requirements, there does not appear to be any obligation on AEMO to ensure that it provides accurate data in response to a request. The proposed rules do not allow retailers to source metering data from anywhere except from AEMO, even though we have access to the same metering data and could make this available through the energy CDR.

Simply Energy considers that it is critical that retailers can seek recourse from AEMO in relation to any disputes or penalties related to AEMO's metering data. For example, the energy ombudsmen charge retailers a fee for dealing with enquiries or complaints. The energy CDR should enable a mechanism for retailers to pass that fee on to the relevant party (such as AEMO or an accredited data recipient) when the retailer is not at fault for the issue.

### Concluding remarks

Simply Energy welcomes further discussion in relation to this submission. To arrange a discussion or if you have any questions please contact Matthew Giampiccolo, Senior Regulatory Adviser, at [matthew.giampiccolo@simpleenergy.com.au](mailto:matthew.giampiccolo@simpleenergy.com.au).

Yours sincerely

A handwritten signature in black ink that reads "James Barton". The signature is written in a cursive, slightly slanted style.

**James Barton**  
General Manager, Regulation  
Simply Energy