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## **TELSTRA CORPORATION LIMITED**

**Submission to Treasury's Consultation on**

**Consumer Data Right Rules – Version 4 (Energy)**

**10 September 2021**



## 01 Introduction

We welcome the opportunity to comment on Treasury's consultation on version 4 of the Consumer Data Right (CDR) rules, focusing on the application of CDR to energy.

We have previously expressed our support for CDR and continue to believe that providing customers with their data in a common, accessible format will enable them to make better, more informed decisions and help drive competition and innovation across the economy. Telstra's ambitions in the energy retail space include a focus on digital-first solutions for customers. We see the CDR accelerating the energy industry's use of digital solutions and customer-digital uptake across incumbent retailers which is not as high as sectors such as banking and telecommunications. This will help energy customers participate in the digital economy and gain the benefits of data-driven innovation.

We support the introduction of the CDR for energy and recognise the positive benefits it can deliver customers and the market. Below, we identify three key matters for further consideration by Treasury relating to phased implementation, customer types and complaints management.

## 02 Phased implementation

We support a phased implementation for energy and agree with the general approach proposed by Treasury. However, to ensure that all data holders have the appropriate time and access to resources to facilitate implementation, we encourage Treasury to provide the following:

- A minimum 12 months for tranche 1 implementation. This should be the minimum amount of time provided to any sector designated under the CDR as the regime represents a significant IT infrastructure and process build, including dependencies on external bodies such as the Australian Competition and Consumer Commission (ACCC) (and in the case of energy, the Australian Energy Market Operator (AEMO)).
  - An October 2022 date should be contingent on all energy requirements being finalised by October 2021.
- Clarity on how ACCC and AEMO resourcing would facilitate the early commencement of smaller retailers ahead of the proposed October 2023 (tranche 2) approach. Smaller energy retailers who wish to commence earlier should not be restricted from entry due to insufficient resourcing from external bodies to facilitate the build and test requirements.

## 03 Customer types in energy

We encourage Treasury to continue the approach adopted by the ACCC when developing the banking CDR rules, which was to focus on a minimum viable product (**MVP**). The ACCC used an MVP approach which helped accelerate implementation of the CDR, while minimising unforeseen impacts from a broad application of CDR rules. To accommodate the MVP model, the ACCC committed to an iterative rules approach, which we are continuing to see under Treasury.

An MVP approach in energy would mean a focus on the key data flows for the customers that are most likely to get the most benefit. In the case of large commercial & industrial (**C&I**) customers in energy, we believe there would be benefit in designating AEMO held data as it relates to a customer's usage and is therefore already standardised across the industry. This would represent minimal additional build and address concerns that meter data is not easily accessible.

Other designated CDR energy data sets, including retailer held data sets should not be included at this stage as:



1. The National Energy Customer Framework (**NECF**) and Energy Retail Code (Victoria) in which energy retailers operate apply to small customers (residential and small businesses). These energy rules, and therefore business systems and processes, are built to support the obligations for small customers. Bespoke solutions are held across retailers for C&I data.
2. C&I contracts are often individually negotiated with the relevant customer/retailer and are therefore not subject to industry standardisation in the way small customer tariffs and arrangements are. Large customers operate outside of the NECF based on bilateral commercial arrangements.
3. Arrangements with these customers are often for a set period (extending several years), subject to confidentiality clauses, and linked to a retailer hedging and forecasting arrangements.

This could be achieved through amending customer eligibility based on consumption threshold and applicable data sets.

#### **04 Role of primary and secondary data holders**

It is possible that there may be customer complaints that are the result of AEMO activity or omission. Despite the inclusion of Rule 1.25 (which provides that a primary data holder may request relevant information from the secondary data holder), the lack of specificity around timing for the provision of data may be the cause of some issue. Retailers are required to have complaints policies which outline the process and timeframes for complaint management and resolution.

If AEMO is not required by the CDR rules to provide the data within a certain period (for example 2 business days), then retailers may not be able to manage the dispute or complaint in line with their own policies and requirements. Similarly, if a matter is referred to an external dispute resolution body, the lack of required timeframes may have impacts on the investigation and resolution of customer complaints. Further, there needs to be consideration of responsibilities and liabilities in situations where AEMO do not provide information as it is not 'reasonable to do so'.

We propose that at a minimum, Rule 1.25 be explicit in the timeframes for which information must be provided by the secondary data holder. This should include a timeframe for notifying the primary data holder when it will not be reasonable to provide. However, we also believe that this problem can be resolved by requiring AEMO to be a member of external dispute resolution bodies to allow ombudsman to directly request information from AEMO.