



EnergyAustralia

LIGHT THE WAY

19 November 2021

Jane Hume
Minister for Superannuation, Financial Services, and the Digital Economy
Consumer Data Right Division
Treasury
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Dear Ms Hume,

Draft Consumer Data Right (Telecommunications Sector) Designation 2021

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. EnergyAustralia owns, contracts, and operates a diversified energy generation portfolio that includes coal, gas, battery storage, demand response, solar, and wind assets. Combined, these assets comprise 4,500MW of generation capacity.

EnergyAustralia welcomes the opportunity to make this submission to the Draft CDR Designation Instrument for the telecommunications sector (Draft Designation Instrument). We provide a cross sectoral perspective - as a Data Holder in the energy sector which is also selling telecommunication products.

Our submission below sets out comments on white labelling issues and exemptions for small telecommunication retailers.

Current white labelling guidance may need to be reviewed

In general, we advocate for consistency across the CDR regulatory framework that applies to different sectors, unless there is a clear policy reason to warrant a different approach. In some instances, there may be differences which require small adjustments in approach to the Designation instrument and the CDR Rules. We suggest that Treasury will eventually need to review the Australian Competition and Consumer Commission's current clarifications and guidance on white labelling to ensure it remains appropriate and generally reflects resale arrangements in the telecommunications sector. In this regard, we refer to white labelling as an arrangement whereby a Data Holder may be reselling a telecommunications service provided by another service provider under the Data Holder's brand.

Cross sectoral implications

Treasury will also need to ensure that the CDR regulatory framework for the telecommunications sector recognises cross sectoral implications for Data Holders with CDR obligations across multiple sectors. The following principles are fundamental:

- Regulatory harmonisation – ensuring consistency of regulatory arrangements across each CDR sector, unless a different approach is warranted due to sector-specific factors.
- Regulatory level playing field – The same regulatory arrangements should apply regardless of whether a Data Holder is a Data Holder in one sector or across multiple sectors. A multi-sector Data Holder should have the same options as other Data Holders operating in only one sector to ensure a level playing field.

Exemption for small Carriage Service Providers (CSPs)

In line with EnergyAustralia's position regarding the CDR in the energy sector¹, we support the exemption of small CSPs from Data Holder obligations below a certain customer threshold. Setting the customer threshold will involve striking a balance between reflecting the appropriate size and scale of retailers that can bear the cost of CDR implementation, the risk of deterring new entry into the sector if the threshold is set too low, and extending the CDR to as many customers as possible. The exemption threshold set in the energy CDR Rules of 10,000 small customers for electricity services is one precedent.

If you have any questions in relation to this submission, please contact me (selena.liu@energyaustralia.com.au or 03 9060 0761).

Yours sincerely,

Selena Liu
Regulatory Affairs Lead

¹ [EnergyAustralia_3.pdf \(acc.gov.au\)](#), p 24