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Consumer Data Right Division

Treasury

Submitted via email to data@treasury.gov.au

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Consumer Data Right (CDR) – Treasury consultation on CDR rules amendments version 3

AGL Energy (**AGL**) welcomes the opportunity to comment on the proposed changes set out in the *Competition and Consumer (Consumer Data Right) Amendment (2021 Measures No. 1) Rules 2021 (the Rules version 3)*.

Our feedback on the proposed changes is based on ensuring the original consumer focus of the CDR is met and consumers can take advantage of these broader reforms with confidence that they will receive better outcomes.

New pathways for participation in CDR

As a general comment, we acknowledge Treasury's approach in enabling a broader application of the CDR to meet its objectives by increasing consumers' accessibility to their data through the Rules version 3 proposed changes and as explained in the various use cases and examples. As CDR has not commenced in the energy sector, at this point it is difficult to determine the uptake and functionality of CDR in this sector. We note these changes are instigated due to the limited uptake by customers' accessing their banking data coupled with the large costs in becoming an accredited data recipient (**ADR**). Despite these proposed changes being directed to the evolution and functionality of CDR in the open banking sector, we acknowledge that moving forward changes to the CDR regime may be needed to ensure that it does not become a concept only and meets its intended purpose, otherwise it is a costly compliance exercise for businesses.

New models and OSP's

Whilst acknowledging the basis for these changes in the open banking sector, we recommend the continued consideration of customers' ability to understand who they are providing consent to and to what they are consenting to. At the forefront of implementing any changes to CDR, continuing review and assessment of the customer journey from the customer's perspective should be paramount. The models set out in the Rules version 3, as further elaborated on in the Exposure Draft Explanatory Material, present new pathways for entities to participate in CDR with each model having varying degrees of authority to act and liability exposure between the parties to those arrangements.

On paper, this distinction appears relatively clear. However, from a customer point of view the distinctions between models and roles (and any contractual arrangements) is highly technical and the terms used confusing, for example the difference between an affiliate and a CDR representative. We note the requirements in relation to privacy safeguards, such as disclosures in an accredited person's CDR policy and disclosure in the customer's dashboard, but always reiterate that plain English and clear explanatory supporting material needs to be provided to customers on this journey with due consideration given to ensuring customers understand for their specific request:



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- the relationship between the accredited person and the sponsored affiliate or CDR representative (agent) or unaccredited OSP's (whichever applies);
 - what the sponsored affiliate, CDR representative or unaccredited OSP is authorised to do, or not do, with the customer's data;
 - which party is responsible (liable) at each stage in the customer's data journey; and
 - if the customer is unhappy and wishes to lodge a complaint about how their data has been handled, clear information as to who is responsible in handling the complaint and the relevant dispute resolution obligations and process.

We also provide the following brief comments:

- **Sponsorship model** – We support the development of appropriate safeguards for accreditation to be set out in the Accreditation Guidelines published by the ACCC and look forward to further engagement with industry to ensure that affiliates undertaking self-assessment and attestation meet required thresholds of information security capability to ensure the protection of consumer data and privacy standards being met by affiliates.
- **Trusted advisors** – we note that these advisors have existing professional or regulatory obligations governing the execution of their roles, however, recommend that analysis be undertaken to determine whether there are any gaps between their current obligations and those arising under the CDR regime as a 'trusted advisor' which should be addressed.
- **Joint accounts** – following energy industry sector consultation, we support Treasury's decision to confirm in the Exposure Draft Explanatory Memorandum that the provisions relating to joint accounts do not apply if they are not relevant to a sector but note that these provisions are now moved to the general body of the Rules version 3 from Schedule 3 (the banking sector section) and would seek confirmation of this in the energy specific rules to be released. We are happy to provide further feedback as sector specific rules are developed along the lines of secondary user rules.

As always, we are happy to discuss further if you have any questions in relation to AGL's response, please feel free to contact me or Con Hristodoulidis, Senior Manager Regulatory Strategy on CHristodoulidis@agl.com.au .

Kind regards,

(Submitted by email)

Sarah Silbert

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