

25 September 2019

Priority Energy Datasets Consultation
The Treasury
Langton Crescent
Parkes ACT 2600

By email: data@treasury.gov.au

Dear Treasury,

Re: Priority Energy Datasets – Consultation Paper

Thank you for the opportunity to comment on the *Priority Energy Datasets Consultation Paper* (**Consultation Paper**).

The Energy and Water Ombudsman (Victoria) (**EWOV**) is an industry-based external dispute resolution scheme that helps Victorian energy or water customers by receiving, investigating and resolving complaints about their company. Under EWOV's Charter, we resolve complaints on a 'fair and reasonable' basis and aim to reduce the occurrence of complaints¹. We are guided by the principles in the Commonwealth Government's Benchmarks for Industry-based Customer Dispute Resolution². It is in this context that our comments are made.

We have kept our comments brief as the Consultation Paper contemplates all datasets we regard as important for the implementation of Consumer Data Right (**CDR**) in energy. Rather than respond to every question raised in the Consultation Paper, we have simply made comment in relation to each of the six identified priority datasets.

Finally, we have also raised the issue of dispute resolution for CDR related complaints. Inevitably, complaints will arise as customers and third parties seek to take advantage of the CDR. Many of those complaints are likely to be complex and technical, requiring specialised knowledge of the energy sector. They are also likely to overlap with issues and complaints that we and other specialist energy ombudsman services have been resolving for many years.

For example, in the 2018/19 financial year we received 129 privacy related complaints, 470 complaints relating to marketing (either pressure sales, misleading marketing or both), 745 complaints about poor

¹ See Clause 5.1 of EWOV's Charter: <https://www.ewov.com.au/files/ewov-charter.pdf>

² See EWOV's website: <https://www.ewov.com.au/about/who-we-are/our-principles>

customer service and 1,532 transfer related complaints – which encompass contract disputes, transfers without consent and metering objections. These are all heads of complaint which are likely to increase with the CDR, which (hopefully) will stimulate activity and innovation in the energy market. As Treasury further develops the parameters for the energy CDR, we ask that dispute resolution pathways – and potential customer complaints - be kept front of mind.

Consumer experience will be critical to the CDR's success, and effective, specialised complaint handling will be central to that experience.

Our further comments are set out below.

1. National Metering Identifier (NMI) standing data fields

As the Consultation Paper notes, a number of NMI standing fields are not mandatorily populated and are often left blank. The four fields identified in the Consultation Paper will be necessary and should be required CDR datasets, but EWOV supports the view that there would be little point in requiring all NMI fields to be subject to the CDR.

2. Metering data

Clearly, the CDR for energy will require metering data. For as many customers to take advantage of the CDR as possible, all meter types should be included.

The issue of privacy, and the potential for metering data to reveal consumption and other behaviour is a difficult one – but the potential benefits of the CDR need to be offset against that risk. Implementing strong protections against privacy breaches, and ensuring customers have a clear avenue to dispute resolution will be important to mitigate that risk.

We would note that since March 2014, EWOV (along with other energy EDR schemes), has been recognised by the Office of the Australian Information Commissioner (**OAIC**) as an EDR scheme capable of handling privacy related complaints under the *Privacy Act 1988*. This means that we receive, investigate and facilitate the resolution of complaints concerning practices by EWOV members which may compromise the privacy of individual customers³. This provides a strong baseline of protection for consumers, and has given us useful experience in handling privacy matters.

In relation to frequent switching, it will be important that service providers have access to historical metering. Allowing customers to port their historic metering data to a new retailer would be sensible.

3. Customer provided data

Obviously, this will be a necessary dataset. While it does create the risk of privacy breaches, the CDR cannot operate without it. Of course, robust governance arrangements around customer provided data will be essential.

4. Billing data

Billing data, like metering data, will only maximise its value to the CDR if historical data can be accessed. The current requirements under the *Energy Retail Code*, *Electricity Distribution Code* and the *Metering Code* should be adequate to ensure that two years billing data is maintained and made accessible by retailers.

³ <https://www.oaic.gov.au/privacy/privacy-registers/recognised-edr-schemes-register/>

5. Retail product data

In our view, the product data held by Victorian Energy Compare (VEC) would be sufficient to support basic comparison and switching case uses - that is essentially the function that VEC serves.

6. Distributed Energy Resource (DER) register data

As the energy system transforms, DERs will become increasingly critical and increasingly necessary for customers to optimise their purchasing decisions, or have third parties do so for them through the CDR.

We concur that including DERs in the datasets for the CDR may also accelerate their uptake. This will bring both opportunity and risk for customers, and is another area where the dispute resolution framework will require careful consideration and potential reform.

7. Dispute Resolution

At this early stage, we anticipate that the CDR in energy is likely to generate complaints in at least the following scenarios, (noting that there may well be others which we have yet to contemplate):

- the authentication process fails,
- data is released to the wrong person,
- incorrect data is provided,
- data for a premises is released beyond the period during which it was occupied by the relevant person,
- an Approved Data Recipient (ADR) fails to fully comply with consent process when dealing with a customer,
- explicit informed consent (EIC) is not properly obtained,
- an ADR uses data for a purpose not authorised by the customer.

Complaints arising from these scenarios could be integrated into already existing complaint categories (such as privacy, customer service or transfer - depending what has occurred), or could require the creation of new complaint categories. Either way, they will require specialist energy sector expertise to resolve.

Without an understanding of metering processes, for example, it may be very difficult for a complaint handler to unravel a situation in which incorrect metering data has been provided – or a cross-metering situation has occurred, (where the metering data for two different premises are inter-changed).

We look forward to further opportunities to engage with Treasury as it considers the potential dispute resolution avenues for the CDR in energy. We hope those considerations will be undertaken with a clear understanding of the need for energy specific expertise when resolving energy related complaints.

We trust these comments are useful. Should you require any further information or have any queries, please contact Zac Gillam, Senior Policy and Stakeholder Engagement Officer, on (03) 8672 4285.

Yours sincerely



Cynthia Gebert
Energy and Water Ombudsman (Victoria)