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Office of the National Data Commissioner

Submitted online: <https://www.datacommissioner.gov.au/exposure-draft/submission>

6 November 2020

Data Availability and Transparency Bill

AGL welcomes the opportunity to comment on the Data Availability and Transparency (**DAT**) Bill.

The DAT Bill seeks to improve the way data can be shared safely between Commonwealth entities by building a modern data sharing scheme to assist in the digital future.

We welcome the strong safeguards established under the DAT Bill to help ensure that consumer information is appropriately protected and/or de-identified (depending on the circumstances). We also welcome the purpose of the DAT Bill being for data sharing amongst Commonwealth entities, as distinct from an open release regime.

To ensure the DAT regime operates within these strong safeguards and not as an open data regime, we encourage the government to adopt clear exclusions for data sharing for data that has been collected through other data sharing legislation or regimes without robust cost-benefit and risk assessments. We refer specifically to the Consumer Data Right (**CDR**) and the Energy Security Board's (**ESB**) Data Strategy and provide some further information on this below.

Consumer Data Rights

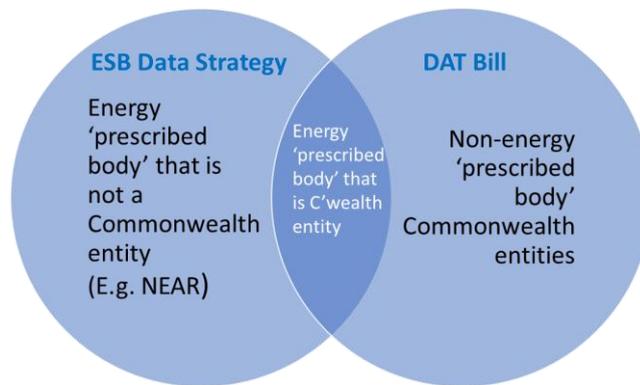
The CDR operates on strong authentication and consumer consent models, where data can only be shared with persons accredited by the Australian Competition & Consumer Commission (**ACCC**) based on explicit informed consent (**EIC**) from a consumer. CDR data should not be accessible under the DAT by Commonwealth bodies unless they are accredited, and the sharing is provided for under the CDR legislation. To allow Commonwealth bodies to access the CDR data under DAT arrangements would undermine the CDR ecosystem which is built on consumer explicit informed consent and control over where their data is directed to.

Energy Data Strategy

The Energy Security Board (**ESB**) is currently consulting on the Data Strategy for the energy sector. This comprehensive strategy introduces a range of recommendations including expanding the definition of 'prescribed bodies' to parties such as the Australian Energy Market Operator (**AEMO**) and National Energy Analytics Research (**NEAR**). Both parties are not Commonwealth entities but will be able to share data under the ESB Data Strategy with other Commonwealth 'prescribed entities' such as the ACCC. The ESB



Data Strategy also recommends that a data management regime be introduced to the energy sector that would operate in a similar manner as the proposed DAT Bill.¹ In particular, the framework would support data sharing agreements between accredited trusted data users (such as those prescribed bodies) which includes research groups.



As demonstrated above, the introduction of the ESB Data Strategy data management recommendation may overlap with the DAT Bill and the way that data is accessible and shared between Commonwealth (e.g. DAT), national (e.g. CDR) and sectoral specific (e.g. ESB Data Strategy) data sharing arrangements. By placing explicit restrictions within the DAT Bill, the government will be able to work with other sectors and governments planning similar data sharing arrangements to do appropriate cost-benefit and risks assessments of each regime connected to one another to protect the security and identity of the data being shared.

Regards

Elizabeth Molyneux

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¹ See [draft ESB Data Strategy](#), recommendation 19: Overhaul of the legislative framework