

13th February 2023

Anna Collyer
Chair
Energy Security Board

Submitted by email

Dear Anna,

Data Services Delivery Model – Consultation Paper

PIAC welcomes the opportunity to respond to the Energy Security Board's (ESB) Data Services Delivery Model Consultation Paper (the Paper).

PIAC supports the ESB's intent to ensure that energy system data can be utilised more effectively to promote the long-term interests of all consumers. Energy is an essential service that impacts the health, wellbeing, financial sustainability and social inclusion of households and communities. Effective utilisation of well-designed data services and systems is important to improved consumer outcomes as we transition to a more complex, digitised, and flexible energy system.

While the process to develop a strategy for the effective management and use of data is welcome, the approach outlined to date presents some concerns. A number of aspects of the Paper and its background and assumptions are flawed and may undermine effective consumer protection and consideration of the future needs of consumers.

Developing a model guided by consumer outcomes

Consumer outcomes must be the key consideration when developing the data services delivery model. PIAC is concerned that the Paper is framed around building a 'culture of data-sharing', 'unlocking data' and 'reducing barriers to sharing data.' This focuses on process (the use of data) rather than outcomes (what data should do for consumers). Without more explicit objectives and principles focused on consumer outcomes and protections, the Paper risks creating a model that facilitates data use but is not fit-for-purpose and does not support consistent outcomes in the interest of all consumers.

We recommend revising the following aspects of the Paper to explicitly prioritise consumer outcomes:

- The overarching question the paper is seeking to address
- The policy principles and objective of the delivery model
- The features to be included in the delivery model

- The assessment criteria for the delivery model

The key question of what specific consumer benefit/s data services and sharing are seeking to achieve has not been sufficiently answered. The primary question should not be how to share data, but for what purpose?

Without clear identifications of the consumer outcomes intended by the model, and the consumer protections to support those outcomes, it is difficult to recommend an option from those presented. However, it would appear that a phased approach involving option 2 in the short term, moving towards option 4 in the medium/long term seems reasonable, subject to appropriate focus on consumer outcomes and protections.

If option 2 is progressed, there must be consumer representatives on the steering committee.

A cautious approach to data services and sharing

As the primary holder of accumulated data, AEMO is essentially acting in place of consumers in granting access to consumer data. This role requires AEMO and all related data-holders and data-users to approach data services with appropriate caution in the first instance.

We recommend the 'phased approach' to the data services model proposed in the Paper build strong principles of protection into the governance and capabilities of data services from the beginning. If there are protections that prove superfluous to data services requirements, or which are preventing the realisation of desired consumer outcomes, this can be captured in the review stage outlined in the Paper. PIAC strongly recommends building strong consumer protections (and taking a conservative approach to risks) from the beginning, rather than attempting to add them in later after detrimental outcomes occur. The experience of embedded networks demonstrates that attempting to unwind a framework built on 'facilitating innovation', after the fact, is complicated (if not impossible) even with evidence of substantial consumer detriment.

At a minimum, data services governance and capabilities should align with Consumer Data Right frameworks to ensure consistent principles and approaches to protections.¹

Other comments and continued engagement

We note that while this initial process is predominantly concerned with facilitating access to data for existing data-users, including governments and universities, it appears likely that the data services model established through this process will be widened in scope in the future. PIAC is opposed to an approach predicated on facilitating the use of energy consumer data for commercial interests and recommends that the data services model is designed in such a way as to disallow commercialisation of datasets and services. We consider this creates incentives for data use (and for the reduction of consumer protections) that are contrary to the promotion and protection of consumer interest. Regardless, the data services model must be fit-for-purpose from the outset, and protect consumers if these services are opened to commercial entities in the future.

¹ Treasury 'Statutory Review of the Consumer Data Right' 2022, <https://treasury.gov.au/publication/p2022-314513>

We note that the Paper emphasises standardisation of processes as part of the data delivery services model. We agree that standardisation of processes can be useful, however consumer outcomes should be prioritised above standardisation. We understand this will likely be a focus of the upcoming common guidelines process.

We urge ESB to more explicitly acknowledge and protect vulnerable and at-risk communities, including those experiencing family violence. While there is some discussion in the Paper on privacy, confidentiality and de-identification, this must be prioritised, with the approach strengthened. Privacy and confidentiality are crucial consumer protections that should be resourced accordingly in data services. Contemporary experience has highlighted the risks in data accumulation and use, and consumers are rightly concerned that data systems only retain and use data where necessary, or where it is required to enable desired benefits.

Finally, there is considerable focus in the Paper on the skills and staffing resources that will be required to implement the preferred data services model. PIAC regards expertise in social science, consumer protections and data privacy to be crucial to questions of data sharing and protection and recommends that positions requiring these skills are resourced alongside data analysts.

PIAC would welcome the opportunity to discuss these matters further with the ESB and other stakeholders.

Yours sincerely

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