



Mr Peter Harris AO

Chairman

Productivity Commission

Lodged on-line: www.pc.gov.au

12 December 2016

Dear Mr Harris,

Re Data Availability and Use Draft Report

AGL welcomes the opportunity to respond to the Productivity Commission's *Draft Report: Data Availability and Use*, October 2016.

AGL is one of Australia's largest integrated energy companies and the largest ASX listed owner, operator and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources. AGL is also a significant retailer of energy, providing energy solutions to over 3.7 million customer accounts throughout eastern Australia. In 2015, AGL established a New Energy Services division, with a dedicated focus on distributed energy services and solutions.

AGL's submission is primarily focussed on findings and recommendations relevant to the private sector and the customers they serve.

Trust

AGL agrees with the Commission's observation that the continued realisation of the enormous benefits of data-driven learning and innovation depend on establishing and maintaining a high degree of customer trust. Organisations will build this trust in a number of ways, including:

- providing clear, transparent explanation of what information they will or may collect about a customer, the uses to which that information will or may be put and any circumstances in which that information may be disclosed to third parties;
- demonstrating through tangible action the benefits accruing back to the customer as a result of the information collection (such as improvements in customer service and the development of new products that the customer values);
- as the subject and often the source of the information, providing customers easy access to information held about them and the ability to choose to share that information, particularly where this will further customer empowerment and market participation; and, importantly
- safeguarding customer information from unauthorised access.

AGL considers that, by a combination of existing privacy legislation and commercial and competitive realities, these outcomes are largely being realised today in the Australian economy. Speaking from AGL's own experience and our observations of the evolution of data generation, collection and use in the energy sector, we find that as new sources of data enter the landscape, so energy service providers are leveraging that data to offer new services to customers and to improve delivery of existing services.

There are many examples to draw from:

- AGL is actively deploying new digital meters to its customers in New South Wales, Queensland and South Australia (customers in Victoria already have digital metering). A key benefit of digital metering is that it captures energy consumption data at half hourly intervals, enabling a far better understanding of the customer's energy consumption behaviour. AGL has developed a web portal and mobile phone applications to enable customers to access this data, to visualise it in a variety of formats, and to access tips and products that assist them to manage their energy use, and ultimately allow them to minimise their electricity bill. It also means that when a customer seeks advice (whether from AGL or a competing service provider) as to what energy plan or complimentary products will suit them, the response is a much more informed and accurate one.
- AGL offers a solar monitoring product to households with a rooftop solar system. The system does not need to have been installed by AGL and they do not need to be an AGL customer for their retail energy supply in order to take up this service. The 'Solar Command' product gives customers peace of mind that their solar system is performing to its full potential. The monitoring tool gives customers up-to-date visibility – letting them know how much energy they are consuming, if the system is producing as much energy as it should, and when the system is generating the most energy making it the best time to use home appliances.
- Business-to-business data services also enable AGL to improve customer service in less obvious ways. For example, AGL may subscribe to proprietary data services that enable AGL to cross-check an address provided by a customer to ensure the credentials are captured correctly and to avoid incorrect account transfers, billing or communication issues.

AGL's privacy policy makes very transparent the types of information we collect about customers and the potential sources of that information. Importantly, this document and AGL's data practices more broadly do and will evolve in line with customer and community expectations and as new data capabilities and opportunities become available. Data sharing and mutual benefit are at the core of AGL's data investments and developments. These are used as a point of differentiation between AGL and its competitors.

AGL is also keenly aware that there are particular privacy and security sensitivities associated with energy-related data. Digital metering is improving the granularity of energy consumption data, with the potential to reveal when a home is occupied and potentially even (with advanced analytical tools) the appliance stock in the home. For these reasons, we take data security very seriously indeed.

Proposed 'comprehensive right'

AGL supports the intent of the proposed 'comprehensive right', namely to enhance customer trust and empowerment. The two key differences between the comprehensive right and existing privacy rights and obligations appear to be the fact that it would apply to a much broader range of data and customers would have the right to be provided a machine readable copy of that data. The proposal is that 'customer data' would capture:

- personal information (as defined in existing privacy legislation);
- all files posted online by the consumer;
- all data derived from consumers' online transactions or Internet-connected activity;
- other data associated with transactions or activity that is relevant to the transfer of data to a nominated third party.

AGL's concern is that if the scope of 'customer data' is cast this wide, then the costs to businesses in putting in place the internal capabilities to be able to provide this data to customers in machine readable format on request may exceed the benefits that are likely to accrue to the customer. For example, over the course of a customer's involvement with AGL, they might go online to alter account settings, contact details, select new billing timeframes, product swap, request a quote etc. Our reading of the Commission's Draft Report is that all

these interactions would constitute or produce 'customer data'. While we will need to be able to retrieve this data and a chronology of customer interactions in certain circumstances (such as to respond to a complaint, or assess the cause of an error) – often from a number of different internal software platforms and data repositories – we do not currently hold this in a ready file for easy transfer or machine readability.

Our experience with the privacy legislation, is that customer requests for copies of personal information and other records are fairly infrequent. However, the requirement to be able to produce a machine readable copy of this broad range of data on request would mean the costs of modifying internal systems to achieve this would need to be incurred whatever the expected request rate. Further, attempting to agree an industry standard with respect to such a broad range of data would require considerable coordination and is likely to embed inflexibility into the sector and stifle business improvements and innovations.

Despite the above, it is important to note that AGL is continually investing to improve both the customer experience and the efficiency of our customer operations. Our recent announcement of a \$300 million investment in a digital transformation program is direct evidence of this. However, the private sector needs the flexibility to invest in system and customer service improvements that will deliver real value to our customers, and not only to meet new regulatory obligations which are not sufficiently targeted to achieving these same outcomes.

We consider that it is important to return to the stated purpose of the right to a machine-readable copy of customer data. In the Commission's own words, this is to facilitate competition in markets and reduce barriers to market entry. In our view, extending the right to a machine readable copy to a narrower class of customer data would better achieve this aim at lower cost. What is relevant to a customer seeking an offer from a competing service provider is to understand the underlying manner in which a company's core service(s) is used by that customer. What data this is will naturally vary depending on the sector. In the energy sector, a customer's consumption data would certainly fall within this categorisation. In the telecommunications sector, it might be call history and data usage. In the insurance industry, it might be amounts insured and claims history. Etc. These are the kinds of data of real value to a customer seeking out the advice or services of a third party.

Another way to approach the requirement for a machine readable copy of data would be to apply a 'consumer benefit test'. This would consider the value to a customer in making certain types of data available in machine readable format and weigh these against the costs. The costs here would include system and readiness costs, but also potential impacts on investment and innovation. Companies often invest in customer analytics and segmentation in order to build up a better understanding of their customers and their likely preferences in order to customise their service. To the extent these observations are later applied down to the individual customer level, it would be contrary to incentives for investment and innovation were they required to be handed to competing service providers.

More specifically targeting the comprehensive right in this way would not prevent firms choosing to share a greater breadth of data with their customers in machine readable format as a way of enhancing trust or differentiating themselves in a competitive market. However it minimises core compliance costs and allows greater scope for innovation and competition, while ensuring that customers have access to the key information that will empower them as active market participants.

APIs and other technology choices

AGL firmly supports the Commission's recommendation to leave the determination of standards and formats for the sharing of customer data to industries to develop and agree. The risk of regulating such standards is that industries become locked into old technologies and it is much more challenging to update data sharing standards and processes. Regulating standards also offers insufficient scope to experiment with new technologies before making investment decisions.

Application Programming Interfaces (APIs) is a good example. The Commission asks in the Draft Report whether APIs are likely to be the appropriate mode for sharing data. The answer

is 'quite possibly, but not necessarily'. Industries across the globe are currently developing, testing and using APIs to facilitate a range of interactions. AGL already interacts with some counterparts using their own APIs and is investigating how an AGL API might most optimally be structured and used. However, in AGL's view, it is best to allow technology experimentation and risk to be flexibly managed by the private sector, rather than requiring industry by legislative mandate to sink investments into a particular technology that may soon be outdated.

National Interest datasets

AGL considers that the designation of any private sector data set as being of 'national interest' and thereby subject to enhanced data sharing arrangements should only occur where there is demonstrated a clear deficiency in sector specific data sharing arrangements and practices. In heavily regulated industries like energy (with our own regulator, rule maker, market operator, and policy oversight body) there has already been substantial consideration of what data is necessary to be made available for the proper functioning of the market and the protection of customer interests. Furthermore, the market and regulatory frameworks applying in the energy sector are continually updated to account for evolutions in technology and patterns of energy generation and use, and this extends to issues related to data collection and disclosure.

Here are just a few recent examples:

- in 2014, the AEMC made new rules requiring that retailers and distributors provide customers and their authorised representatives easy access to their consumption data in a common format;
- in 2015, the AEMC made new rules requiring registered participants to provide the Australian Energy Market Operator (AEMO) with enhanced demand side participation information;
- the AEMC is currently assessing a rule change proposal which would require distribution and transmission businesses to provide more information on asset retirements and replacements in their annual planning reports;
- AEMO is currently considering what further data it requires to ensure the safe and efficient operation of the market in light of greater penetration of renewables and distributed generation; and
- the COAG Energy Council is currently contemplating the need for an energy storage database.

In addition to these formal rules and regulations for data collection and disclosure, the industry has a history of sharing aggregated and anonymised data with governments and research institutions to better inform policy making and research.

In pursuing a framework for designation of 'national interest datasets' (NIDS), it would also need to be made very clear how the governance arrangements of a NID would interact with sector-specific governance architecture. The Commission suggests that 'for datasets designated as national interest, all restrictions to access and use contained in a variety of national and state legislation, and other program-specific policies, would be replaced by new arrangements under the *Data Sharing and Release Act*. AGL considers that to nullify existing arrangements for collection and access to energy sector datasets would be both impractical and unwise.

Given the potential impact on private sector investments and the potentially quite complex interactions with industry-specific data sharing arrangements, AGL considers it critical that any designation process be transparent and provide genuine opportunity for stakeholder participation. There would need to be very clear principles or criteria to guide the designation process, with impacts on industry investment and innovation certainly featuring.

Preserving private sector data-driven investment and innovation

AGL welcomes the Commission's observation that commercial incentives are driving growth in data collection and the productive uses of data, and that any interventions into private sector data collection and sharing must be carefully considered so as not to negatively impact upon

those incentives and the benefits (both economy-wide and customer-specific) that these activities are yielding.

AGL also agrees with the Commission's finding that the primary role of public sector organisations should be to facilitate, where appropriate, greater availability of datasets. And that, in most cases, enriching or adding value to that data should be left to the private sector to bear the attendant risks and rewards. Bureaucratic funding and governance frameworks can hamper government-driven data enrichment exercises and the speed with which they are delivered, and unfamiliarity with private sector commercialisation strategies may mean that achieving appropriate returns from the investment is more difficult. Importantly, government bodies may find they are simply duplicating investment that is already occurring in the private sector.

Should you have any questions in relation to this submission please call me on 0402060120 or Eleanor McCracken-Hewson, Policy and Regulatory Manager, New Energy, on 03 9833 7252.

Yours sincerely,



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