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Mr Bruce Cooper
General Manager
Consumer Data Right Branch
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra, ACT 2601

By email: accc-cdr@accc.gov.au

Reference: Consultation on how best to facilitate participation of intermediaries in the CDR regime

Dear Mr Cooper

We write to you on behalf of Moneytree Financial Technology Pty Ltd (ABN 97 611 531 107) as part of the consultation by the ACCC on how to best facilitate the participation of intermediaries in the Consumer Data Right (CDR) regime. We submit the following comments in response to the ACCC's questions:

Intermediaries

1. If you intend to be an intermediary in the CDR regime or intend to use an intermediary, please provide a description of the goods or services you intend to provide to accredited persons or to CDR consumers using an intermediary. Do you intend (or intend to use an intermediary) to only collect CDR data, or collect and use CDR data? What value or economic efficiencies do you consider that intermediaries can bring to the CDR regime and for consumers?

Moneytree intends to be an intermediary in the CDR regime.

As a financial data aggregator, some of the main value-added services our company provides to corporate clients both in Japan and Australia are the standardisation and enrichment of data.

As data is stored differently by different organisations, standardisation is an essential "cleaning" process which simplifies the use of data we receive on the clients' behalf (and that of their clients).

Unaccredited CDR participants in Australia who need to obtain data to provide value-added services would have to "clean" (standardise) this data. We provide this service for them.

The absence of standardisation - the direct on-sharing of CDR data with unaccredited parties - would be a mere exercise of gatekeeping and adds no value to the process. Rather, value is created by gathering and standardising data from different providers and, therefore, making it usable for third parties.

We also offer enrichment of data services, including categorisation and normalisation. The enrichment of data is essentially the generation of derived data obtained from either simple or complex mathematical modelling with an existing dataset, which an intermediary can provide to unaccredited parties.

In particular, categorisation and normalisation of data received from different holders are the essential first steps to using the data in a variety of downstream applications such as credit scoring, account alerts, historical earning and spending views, round-ups from a set of spending categories and many other use cases provided by data recipients currently.

Providing categorisation and normalisation services as data intermediaries is of value as each downstream provider no longer needs to build its own capability in this area. Moneytree provides this capability as well as combining data sets that currently fall outside the CDR, such as loyalty point data.

2. How should intermediaries be provided for in the rules? In your response please provide your views on whether the rules should adopt either an outsourcing model or an accreditation model, or both and, if so, and in what circumstances each model should apply.

Moneytree proposes the use of an accreditation model. CDR intermediaries should be expected to handle (collect, store and redistribute) all forms of CDR data, in either its original or derived form, securely and with utmost care between various CDR participants. An accreditation model will ensure a better data handling exercise in the CDR regime and a more efficient approach than an outsourcing model as, under the latter, intermediaries would be fully reliant on the data recipients' or third-party/outsourced providers' accreditation.

All CDR intermediaries are expected to store customers' data before processing and redistributing the data to different shareholders. Therefore all data intermediaries should manage the information security risk, just like current participants (i.e. data holders and data recipients) and should be expected to be accredited as a participant rather than relying on other participants' accreditation as in the outsourcing model.

3. What obligations should apply to intermediaries? For example, you may wish to provide comment on:

- a. if intermediaries are regulated under an accreditation model, the criteria for accreditation and whether they should be the same or different to the criteria that apply to the current 'unrestricted' level, and the extent to which intermediaries should be responsible for complying with the existing rules or data standards;
- b. if intermediaries are regulated under an outsourcing model, the extent to which contractual obligations should be regulated between accredited persons and intermediaries;
- c. if the obligations should differ depending on the nature of the service being provided by the intermediary.

Similar to CDR data recipients and holders, intermediaries should be expected to follow all CDR rules/regulations in place for regular CDR accredited parties. The current draft rules (published [Sep-2019](#)), do not have data intermediaries in scope. Therefore, the rules need to be expanded to include CDR intermediaries.

In terms of obligations, instead of requiring all data intermediaries to follow the current criteria for unrestricted access, we urge the ACCC to reexamine the accreditation criteria based on the authorisation scope of CDR data that intermediaries are willing/able to collect, store and potentially distribute in an enriched or derived form. The current unrestricted level of accreditation should only apply to data intermediaries that access and distribute all clusters/types of customer CDR data.

4. How should the use of intermediaries be made transparent to consumers? For example, you may wish to comment on requirements relating to consumer notification and consent.

To ensure CDR implementation stays consistent with its goal of providing a good customer experience (<https://consumerdatastandardsaustralia.github.io/standards/#principles>), disclosure of intermediation to customers should be mandated.

Data intermediaries should not be invisible or hidden parties to the consumer experience. Similar to the disclosure of outsourced providers, the customer should be provided with all relevant information before making an informed decision on consent.

We propose to explicitly disclose the use of data intermediary during consent request page, similar to the case for outsourced providers considered in the *Consumer Experience Guidelines*. (See p. 58: <https://consumerdatastandards.org.au/wp-content/uploads/2019/11/CX-Guidelines-v1.0.1.pdf>)

5. How should the rules permit the disclosure of CDR data between accredited persons? For example, you may wish to comment on requirements relating to consumer consent, notification and deletion of redundant data, as well as any rules or data standards that should be met.

Disclosure of CDR data between accredited persons should be allowed if it satisfies the following requirements:

- informed consent for the disclosure is provided by the customer as the data owner; and
- the disclosure only provides data according to the recipient's accreditation level (i.e. instead of 'unrestricted' only, multiple levels of accreditations based on authorisation scope would be available for participants in the future) and consent.

We urge the ACCC to use this opportunity to further consider the separation of **consent to share**, and **consent to retain/use** CDR data as individual consents:

- We believe the ACCC might have overlooked several valid use case scenarios which would benefit the customers as the real data owners in favour of simplicity. For example, the proposed CDR implementation does not allow the customers to retain historical financial data of closed accounts - unless the relevant financial data has been manually downloaded by the customers as:
 - the consent to share and use CDR data of an account automatically expire or are considered as revoked when the relevant account is closed, and

- financial data from closed accounts are currently excluded from the CDR regime.
- The conflation of consent to share and consent to use CDR data could be ambiguous and confusing, particularly for one-time consents. While the current consumer data standards specify the maximum lifetime of access tokens (i.e. between 2 and 10 min. after issuance - <https://consumerdatastandardsaustralia.github.io/standards/#tokens>) rules and regulations are not explicit enough in determining the maximum time period that the data recipient could hold the data for to fulfil the objectives proposed to the customer. So far, there is no clear indication as to how long a data recipient can (temporarily store and) use CDR data and what would happen if the data recipient is unable to provide the expected service when the one-time consent has expired.

6. Should the creation of rules for intermediaries also facilitate lower tiers of accreditation? If so, how should the criteria and obligations of new tiers of accreditation differ from the current 'unrestricted' accreditation level, and what is the appropriate liability framework where an accredited intermediary is used?

We recommend the ACCC considers different tiers of accreditation based on the confidentiality/personal identifiability level of disclosed CDR data that the participant has access to, rather than the participant's role in the CDR regime. For example, customer transactional data alone is less confidential than the combination of customer personal data and customer transactional data and, therefore, the participant should be expected to have a higher level of accreditation to access the latter. Furthermore, we also encourage the ACCC to look into facilitating accreditation for **participants who consume derived CDR data** which are not easily classifiable under the current data standards. For example, a participant may only be interested in identifying a customer's income bracket and past two years of monthly expense statistics, which an intermediary can provide.

Permitting CDR data to be disclosed to non-accredited third parties

7. If the ACCC amends the rules to allow disclosure from accredited persons to non-accredited third parties and you intend to:

- A. receive CDR data as a non-accredited third party, please explain the goods or services you intend to provide, the purposes for which you propose to receive CDR data, and how this may benefit consumers;
- B. be an accredited person who discloses CDR data to non-accredited third parties, please explain the intended goods or services you intend to provide and how they may benefit consumers.

As data intermediaries, Moneytree, with explicit consent from data owners, intends to disclose CDR data through our B2B product, Moneytree Link.

Through Moneytree Link, the customers would be able to:

- provide consent to disclose their financial data - both CDR data and other data which is not

considered as CDR data - to our growing number of business partners;

- centrally manage the consent(s) given to disclose and store financial data to Moneytree and, if any, the consent(s) given to disclose the stored financial data to our business partners; and
- manage their overall/aggregated personal financial well-being with Moneytree personal financial management (PFM) app.

In particular, a centralised consent management system will become increasingly important with more participants expected to join the CDR regime in the future. For example, without a centralised consent management system, a consumer with three banking relationships who uses a personal finance app and a separate tax preparation tool would need to manage six consents; this number of consents would grow exponentially based on the number of 'data holders' with which the customer has relationships, and the 'data recipient' tools the customer chooses to use. It would greatly benefit such consumers to centralise their data in an intermediary, then forward all or some of the data to downstream tools.

8. What types of non-accredited third parties should be permitted to receive CDR data? Why is it appropriate for those types of third parties to be able to receive CDR data without being accredited?

Based on our experience preparing to be a CDR participant, current requirements for the sole accreditation level (i.e. accreditation with unrestricted access level) demands significant financial and human resource investments. This is proving to be a huge, if not an impossible, barrier to entry for small to medium-sized potential participants in the market.

With the introduction of data intermediaries, these smaller participants might be able to offer their service while leveraging the intermediaries' abilities to manage the information security risks (i.e. by providing them with a secure platform to provide service to the customers). As they can fully rely on the data intermediaries, these participants should also be able to rely on the data intermediaries' accreditation without the need of being accredited. This is similar in concept to a payment provider handling credit card numbers on behalf of a merchant that is not PCI-DSS audited.

It is appropriate for downstream providers to have lower and possibly no accreditation for various reasons. Some downstream recipients, for example, mortgage brokers, already have requirements for data collection and management. In our view, whether that financial data comes from an API provided by an intermediary or a digital copy of the financial statement emailed to them, the risk and controls surrounding that data are similar. Smaller downstream recipients, for example accountants, would only handle a small total number of consumers' data and thus have a lower exposure risk.

We encourage the ACCC not to 're-implement' data protections that exist under the Privacy Act and other legislation / regulatory requirements. Bilateral data sharing agreements for exactly the same type of data already exist and serve as an alternative to the CDR. The CDR is an opportunity to bring transparency and consumer control to the existing data economy; overly onerous rules around CDR data will discourage its use as companies choose existing tools instead.

9. What privacy and consumer protections should apply where CDR data will be disclosed by an accredited person to a non-accredited third party?

In the event of the disclosure of CDR data to a non-accredited third party, Moneytree recommends that the disclosure should meet the same transparency and consent standard as the CDR. A consumer should be presented with a similar disclosure screen naming the intermediary sharing the data as well as the third-party receiving that data. The consumer should have a bilateral agreement such as Terms of Services with both parties, and the accredited and non-accredited parties should have a bilateral sharing agreement similar to existing arrangements such as bank feeds to accounting services.

Disclosing CDR data from an accredited person to a non-accredited person should not occur without the explicit consent of the data owner.

10. What degree of transparency for CDR consumers should be required where an accredited person discloses CDR data to a non-accredited third party? For example, are there particular consent and notification obligations that should apply?

Any relevant information - including detailed information of the third party and the data intermediaries, accreditation of each party and the purpose of information disclosure - which allows the customer to make a better-informed decision and increase the customer confidence in the CDR regime should be explicitly disclosed to customers during the consent process.

11. Additional issues detected

Moneytree's largest concern is the existing barrier to small to medium-sized companies and potential future market participants due to the large financial and human resource investments that are required to achieve full accreditation.

We believe this could lead to a smaller pool of CDR participants, which can then lead to limited value creation for data owners and participants, which could ultimately work against the goals of the CDR Regime of bringing more and better competition to Australia's data economy.

We submit these comments with the aim to contribute to a fairer and more efficient framework for the Consumer Data Right.

Sincerely,

Mr Paul Chapman

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Mr Ross Sharrott

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