

29 October 2020

Consumer Data Right Division

Australian Competition and Consumer Commission

Canberra ACT

By email: [accc-cdr@accc.gov.au](mailto:accc-cdr@accc.gov.au)

Dear Sir/Madam

**CDR rules expansion amendments Consultation Paper September 2020**

The Customer Owned Banking Association (COBA) appreciates the opportunity to comment on this consultation paper.

COBA is the industry association for Australia's customer owned banking institutions (mutual banks, credit unions and building societies). Collectively, our sector has \$139 billion in assets, 10 per cent of the household deposits market and more than 4.5 million customers. Customer owned banking institutions account for around three quarters of domestic Authorised Deposit-taking Institutions.

Our sector has a record of embracing innovation as demonstrated by its early adoption of the New Payments Platform and digital wallet solutions (e.g. Apple Pay). COBA member Regional Australia Bank is the first ADI to be accredited as a Data Recipient in the CDR regime.

We see the CDR as having huge potential to benefit consumers and drive competition in banking, particularly if complemented by other measures to empower consumers to take advantage of CDR. However, it is also important for policymakers to recognise that this regime is novel and complex and requires a significant investment of time and resources to understand and achieve compliance.

As noted in the Consultation Paper, the proposed changes represent a significant expansion of the CDR regime to allow for the entry of a greater number and type of businesses in the CDR.

COBA supports well-considered measures to encourage the growth and functionality of the CDR, promote competition and innovation in the data economy, and empower consumers' choices about their data. However, data holders need time and space to understand and comply with the foundational rules before new rules are made.

A comment by a COBA member is that "there are still some aspects of the current Rules that haven't been adequately addressed in terms of guidance and detail and it would be more beneficial for the focus to be on filling these gaps before moving to expansion of the Rules, which would instead create even more gaps and questions."

The CDR accreditation framework is a core element of the CDR ecosystem and is crucial to build consumer trust in the regime. In our view it is too early to significantly expand the scope and complexity of the accreditation framework.

The proposed amendments would allow new classes of data recipients, i.e. limited data recipients, data enclave participants, affiliates & non-accredited "trusted advisers", based on various levels of accreditation criteria.

Given the CDR regime is still in its introductory implementation phase, we believe more time is needed to embed this foundational phase of the regime before it is significantly expanded.

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As the Consultation Paper notes, allowing the disclosure of CDR data to non-accredited persons is a significant shift in the CDR regime, which currently only permits accredited persons to receive CDR data (with the exception of outsourced service providers). Non-accredited parties would not be subject to the requirements of the CDR framework and there would be no obligation on non-accredited parties to delete data in accordance with any election made by the consumer.

COBA member ADIs are currently developing compliance systems and processes ahead of their consumer data sharing obligations that commence in July 2021.

A COBA member notes that “the build for CDR is significant and can require engagement with multiple vendors and systems. It is therefore vital to finalise the development of business requirements and solution plans as soon as possible, to allow for a July 2021 commencement date. Making changes to the Rules whilst this development is in-flight impedes this and represents a significant risk for delivering valuable CDR functionality for consumers by July 2021, as any drafted or finalised requirements and plans need to be completely reviewed and modified, before the actual build can commence.”

COBA members are focused on the challenging operating environment and assisting customers affected by the pandemic and have not been able to provide detailed feedback on important elements of the Consultation Paper, such as *Table 1: Preliminary assessment of risks associated with data sets* and the disclosure of CDR “insights”.

The case against significantly expanding the CDR regime at this point is the increase in risk and complexity and therefore the increased likelihood of a failure or an unintended outcome and the consequent impact on consumer confidence in the CDR regime.

Any failure or unintended outcome from the consumer perspective is likely to result in reputational damage to the original data holder, i.e. the ADI, in addition to any impact on the relevant data recipient or recipients.

Also, as the Consultation Paper recognises, all proposals have potential “build impacts” for data holders. As acknowledged, “the build for data holders may be relatively complex” in relation to enabling CDR data sharing by non-individuals, business partnerships and secondary users of accounts.

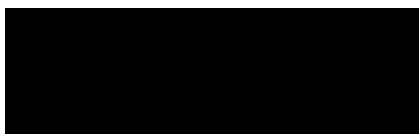
The one-month consultation period followed by a one-month period to finalise the policy settings appears hasty.

We note that it is the ACCC’s intention to determine which proposals to proceed with or to prioritise and to decide commencement dates following further impact analysis and assessment of stakeholder feedback.

This process should not be rushed.

COBA appreciates the opportunity to provide feedback and looks forward to continuing engagement with the ACCC on the CDR. Please contact Esther Rajadurai [REDACTED] if you wish to discuss any aspect of this submission.

Yours sincerely



**MICHAEL LAWRENCE**

**Chief Executive Officer**