



12 October 2018

Australian Consumer and Competition Commission
Submitted via email: ACCC-CDR@acc.gov.au

Re: Consumer Data Right rules framework submission

Amazon.com, Inc (“**Amazon**”) welcomes the opportunity to provide initial comments to the Australian Competition and Consumer Commission (“**ACCC**”) on the draft *Consumer Data Right Rules Framework* (“**Rules Framework**”).

We note the timeframe for the passage of the proposed *Treasury Laws Amendment (Consumer Data Right) Bill*, and the subsequent roll out by the ACCC of the Rules Framework, is limited which we believe creates potential risk for industry readiness, and potentially, low consumer adoption of the new rights.

Further, we note the Rules Framework may not be optimal for all sectors that the Consumer Data Right (CDR) will extend to in the future. As it stands, it is refined for the Banking sector given it is the first adopter. We would encourage the ACCC to consider industry specific requirements and ensure continued consultation with industry players of future sectors expected to be brought within the CDR in a timely manner as the roll out continues.

For the ACCC’s consideration, we provide the following initial comments on the Rules Framework:

1. Accreditation and outsourcing (Section 6.8)

The Rules Framework does not define what will constitute ‘outsourcing’ and we believe the proposed rules must define this. For example, the Australian Prudential Regulation Authority (“**APRA**”) has defined ‘outsourcing’ in Prudential Standard CPS 231 (Outsourcing) as where an entity enters into an arrangement with another party to perform, on a continuing basis, a business activity that currently is, or could be, undertaken by the institution itself. We also believe that any consideration of outsourcing should consider evolving technologies such as shared computing services (e.g. public cloud). For example, outsourcing should not assume that an outsourced service provider necessarily has readable access or effective control over consumer data.

The ACCC also proposes to make rules relating to outsourcing which would require an accredited data recipient to “have legally binding agreements with any outsourced service provider that mirror the obligations of the accredited data recipient in relation to security and management of CDR data”. It is unclear what “mirror” will mean and we have concerns this may set an inappropriate aim and expectation on accredited data recipients that prescriptive contractual language must be included in outsourcing agreements.



2. Disclosure of Consumer Data to an Outsourced Service Provider (Section 12.1.2)

The Rules Framework does not define what will constitute a 'disclosure' of consumer data and we believe the proposed rules must define this. We would recommend a definition consistent with the guidance of the Office of the Australian Information Commissioner that disclosure occurs when personal information is made accessible to others outside of the accredited data recipient and where the accredited data recipient has released the subsequent handling of the personal information from its effective control.

We would welcome the opportunity to stay engaged with the ACCC and its various working groups as it progresses in the roll out of the CDR Rules Framework.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jessika Loefstedt". The signature is fluid and cursive.

Jessika Loefstedt
Senior Manager, Public Policy, Australia & New Zealand
Amazon Web Services

