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Australia

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Consumer Data Right rules framework submission

Dear Sir/Madam

1. Introduction.

Our submission focusses on section 3 of the Consumer Data Right Framework, “CDR consumer – who may take advantage of the CDR?”. In particular we wish to address the pressing matter of “offline consumers”. The summary of proposed rules under section 3 includes the statements:

“The ACCC proposes that the first version of the rules extend the CDR to consumers who have access to and use online banking, but not to offline consumers.”

“The ACCC seeks stakeholder views on what would be a reasonable timeframe for extending the CDR to former customers and offline consumers.”

To exclude offline customers from access to “Open Banking”, many of whom would fall into the categories of unbanked or underbanked, is compounding the problem of the financially excluded in Australia. Arguably this section of the community is most in need of the benefits of “open banking” but will be denied access or will be pushed to the back of the queue along with “former customers”.

Banks are pushing consumers towards a reliance on Mobile Banking Apps. Banks are doing this for their own convenience and whilst most sections of the community welcome and prefer access to financial services via digital channels this is not the case for those on the wrong side of the digital divide. Pushing consumers to digital channels is a cost reduction exercise. This allows Banks to accelerate Branch closures, just recently Bankwest announced on its website that 29 of its branches are to closeⁱ. This is one example of a trend has been picked up by News Corp in recent weeks, where they report *“More than 200 bank branches and 700 ATMs gone in just 12 months.”*ⁱⁱ.

It is incumbent on the Banking Industry to ensure that all efforts are taken to ensure that the financially excluded and the underbanked have acceptable levels of access to financial services and to “Open Banking” via the banking channel of their choice, not just digital, and this must include options for face to face banking.

For the ACCC to encourage the exclusion of any section of our community is unacceptable.

In this submission we put forward our case for ensuring that “offline customers” are catered for from day one and are not further marginalised.

2. The digital divide and financially excluded.

The scale of financial exclusion in Australia is generally not well understood by the Australian public or by the Banking Industry as demonstrated by the headlong and thoughtless rush into “digital banking” at the expense of face to face banking. There is a growing body of evidence that helps to quantify the size of the problem and the impacts on the community and economy.

According to the Interim Report published by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industryⁱⁱⁱ:

*“as at 30 June 2017, about 28% of the Australian population lived in regional or remote areas. This is nearly 7 million people. At the same time, only 4% of all branches of **authorised deposit-taking institutions** (ADIs) and 2% of ATMs were located in areas classified as remote or very remote. The banks’ branch networks have been shrinking for some years. The banks have fewer face-to-face points of presence.”*

This statement alone demonstrates the lack of access to face to face points of presence especially in remote areas where the problem of financial exclusions is keenly felt. The Royal Commissions Interim Report goes on to say:

“Some Aboriginal and Torres Strait Islander people who live in remote or very remote areas encounter particular difficulties in their dealings with banks. Some, for whom English is a second or third language, encounter language difficulties. Some encounter difficulties in satisfying some forms of identification requirements. Some may have a low level of literacy, particularly financial literacy, and may have only a limited understanding of how credit, insurance and superannuation products work. And all who live in remote or very remote areas face the difficulties of geography.”

Even where access to Mobile Banking Apps or Internet Banking is possible these do not constitute an adequate or even suitable access point to banking services for the reasons listed above, i.e. language difficulties, financial literacy and limited understanding of financial services products.

It is important to recognise this as these difficulties impact on both “online” and “offline” customers and this point needs to be kept in mind if “Open Banking” is to be accessible to, and is to benefit, all Australians.

The Consumer Data Right Fact Sheet^{iv} issued by The Treasury includes the following statements:

2.1. “The ACCC will seek to promote competition and customer focussed outcomes within the system,”

If appropriate steps are not taken by the Banking Industry to ensure access to “Open Banking” from day one, then the objective to promote competition and customer focussed outcomes will apply only to the financially included and will widen the gap between them and the financially excluded. “Open Banking” will have failed at the first hurdle to achieve its initial objective.

2.2. “The CDR will improve customer choice and convenience by allowing data to be shared with third parties, such as comparison sites. The improved ability to compare will increase a customer’s ability to either negotiate better deals with their current providers or switch products if they cannot do so, thus obtaining greater value for money, increasing competition in participating sectors.”

The Royal Commission’s Interim Report has devoted section 7 to “Remote Communities” and central to this section were the issues of remote communities having access to banking services whereby they can better understand and negotiate better deals, switch products and obtain greater value for money. An example given by the Royal Commission in the Interim report highlights this particular issue.

“Basic’ bank accounts provide the account holder with essential banking services at a lower cost than other forms of account. Those whose only income is from Centrelink benefits may therefore find that a basic bank account suits their needs better than other forms of account.

*One of the case studies looked at in evidence showed a customer who lived in a remote community encountering **needless difficulty in switching to a basic account**, despite having the support and assistance of a very able community worker. The customer and her supporter had to travel long distances to go into the Katherine branch of ANZ more than once to achieve what should have been the simplest objective.*

The banker with whom they dealt seemed either ignorant of, or unwilling to implement, the necessary steps. The banker embarked on a wide-ranging survey of the customer’s ‘needs’ evidently seeking to sell the customer other bank products. And this she did. Only after several inquiries to ANZ’s call centre to check information, only after several three-hour round trips to and from Katherine, and only on the third time of asking was the request to open a basic account met.

Surely it need not be so hard.”

To further marginalise “offline customers” by excluding them from “Open Banking” or to delay their access to it will further compound the problem of the digital divide and will also ensure failure of “Open Banking” to meet its second objective.

2.3. “The CDR will improve the flow of information in the economy, encouraging the development of new products and applications that reach more customers and are better tailored to their needs. This should support data driven economic growth and create new high value jobs in Australia.”

The Royal Commissions Interim Report goes on to say:

*“One of the chief reasons for Centrelink recipients to **prefer a basic bank account is to avoid incurring fees.** Two particular kinds of fee require special mention: overdraft and dishonour fees.”*

The BANKWEST CURTIN ECONOMICS CENTRE, August 2018 report “FALLING THROUGH THE NET”^v notes that *“For the non-Indigenous community, almost 78 per cent of people lodge bill payments online. This compares to 36 per cent of Indigenous people – a difference of 42 ppts. Large gaps between the two groups are also evident in the lodgement of tax returns, and lodgement of permits. **These gaps are not acceptable.** While direct causality cannot be made here, it is important to point to the fact that many Indigenous people, particularly youths, are incarcerated for late payments of fines and for non-renewal of driving permits. The impact of such incarcerations on individuals and their families, and on the broader society and economy are well documented and understood.”*

“These gaps are not acceptable” so says the BANKWEST CURTIN ECONOMICS CENTRE, but what is being done about it? The ACCC proposal to delay inclusion of “offline” consumers works against financial inclusion, it relegates the underbanked to a lower status by consciously excluding them from day one or perhaps ever.

To lock “offline customers” out of Open Banking will compound the lack of access to products better tailored to their needs. It will do nothing to drive economic growth and it will work against job creation in remote communities the first rung in creating new high value jobs in Australia. As the proposal stands “Open Banking” will fail to meet its third objective.

What can be done?

3. Bridging the Digital Divide in Financial Services

The CDR Framework makes recommendations and seeks stakeholder views in section 3.2. “Offline consumers” as follows:

“The Open Banking review recommended the development of standards to enable consumers who do not have access to online banking to authorise the sharing of their CDR data.”

“The ACCC recognises that a number of consumers do not use online banking, and that this should not necessarily exclude their participation in the CDR regime. That said, Open Banking and the CDR regime largely assume access to and sharing of data by digital means, and it is likely that significant benefits for consumers will be delivered where there is an initial focus on existing digital channels.”

“The ACCC therefore proposes that the first version of the rules extend the CDR to consumers who have access to and use online banking. This would include consumers who use a web browser or a mobile app to access their accounts. Methods by which consumers without online banking accounts can access Open Banking will be brought within scope in a subsequent version of the rules. The ACCC seeks stakeholder views on what would be a reasonable timeframe for requiring banks to share data of their offline consumers under the CDR.”

3.1. Channels for Authorising Sharing of CDR Data.

PerformPlus believes that notwithstanding whether or not a consumer has access to Online Banking they should be able to go into a bank branch and be able to authorise the sharing of their CDR data through the Branch Channel or a Self Service Kiosk.

Furthermore, there are regulatory authorities around the world that have taken action to ensure that the financially excluded and disadvantaged have access to financial services in remote communities. India and the Philippines are just two examples whereby steps have been taken to provide face to face banking services to consumers where there are no branches, access to mobile banking is limited or non-existent or where financial literacy challenges need the personal touch.

Here we shall focus on the Philippines example as it provides a case study of a low cost and simple technology solution which does not require a bricks and mortar presence to solve the problem. This is important as technology and branch costs are often cited as the reason that banks in Australia do not provide acceptable levels of banking services to consumers who sit on the wrong side of the digital divide. For want of a better description we will refer to the solution rolled out in other countries as “branchless banking”.

3.2. The Philippines experience

In December 2017 the Bangko Sentral ng Pilipinas (BSP), the Central Bank of the Philippines, issued Circular 987^{vi} on the Subject: “Rationalization of Prudential Requirements on Banking Offices and Guidelines on the Establishment of Branch-lite Units”.

BSP Circular 987 allows for Branch-lite units to provide a wide range of financial products and services suited for servicing the needs of the market, especially in areas which are unbanked and underserved.

This followed on the heels of BSP Circular 940^{vii} “Guidelines on Deposit and Cash Servicing Outside of Bank Premises” that allowed banks to use third party cash agents as a cost-efficient service delivery channel.

In January 2018 the BSP also issued Circular 992^{viii} on the subject of “Framework for Basic Deposit Accounts”. It should be noted that the recent Interim Report released by the Royal Commissions into Banking etc. calls for access to Basic Banking products for the financially excluded.

Through these initiatives banks have the regulatory framework to strategically leverage innovative digital banking solutions to onboard new customers and expand their market, including low-income areas long considered as niche and unviable by bigger banks.

We strongly recommend that the ACCC investigates the Philippines experience as the lessons learnt are readily transferable to the Australian experience.

Those arguing against implementing a solution to ensure “offline customers” have access to Open Banking from day one of the Open Banking regime will call out the costs to service a relatively small section of the community as a major inhibitor, especially as banks historically view this market segment as loss making. However, the cost to serve is minimal as the Philippines Business Mirror reported in February 2018^{ix};

“The product requiring a special license is called Bank-Genie, one that allows lenders to branch out anywhere at the cost of a \$200 tablet, a \$40 card reader and a \$60 printer, tops.

This compares with bricks and mortar branches that typically cost in excess of P10 million per branch, based on information obtained from private banks. Such upfront costs also typically take five years to recover and only then do those branches begin to make money for shareholders, the bankers said.”

In September this year following a 30 day project, Fairbank, the Agriculture and Industrial Bank of the Philippines, implemented a low cost “branchless” banking solution that allowed agents in the field to take the “branch banking” experience to remote communities.

30 days to implement a low cost solution belies the argument from our banks that it is cost prohibitive to provide face to face banking services to remote communities, especially where the Agent model is also used.

4. In conclusion

Similar to the BSP the ACCC can take the lead in championing similar initiatives in Australia to protect the financially excluded from falling further behind and ensure they have access to more competitive, better priced products and are able to switch accounts more easily under the “Open Banking” regime. The technology exists and is highly affordable, but do our regulators and our government have the fortitude to take action against an “**unacceptable**” situation and mandate “offline customers” to be included from day one, or will the ACCC further compound the problem by pushing “offline” consumers to the back of the queue?

Yours Sincerely
Glenn Stafford
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Performplus Pty Ltd

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ⁱ <https://www.bankwest.com.au/about-us/media-centre/news/bankwest-closes-selected-east-coast-branches-to-invest-in-digital>

ⁱⁱ <https://www.linkedin.com/feed/update/urn:li:activity:6454473922950893568>

ⁱⁱⁱ <https://financialservices.royalcommission.gov.au/Pages/interim-report.aspx>

^{iv} <https://www.accc.gov.au/system/files/ACCC%20CDR%20Rules%20Framework%20%28final%29.pdf>

^v <http://bcec.edu.au/assets/BCEC-Falling-Through-the-Net-The-Digital-Divide-in-WA.pdf>

^{vi} <http://www.bsp.gov.ph/downloads/regulations/attachments/2017/c987.pdf>

^{vii} <http://www.bsp.gov.ph/downloads/regulations/attachments/2017/c940.pdf>

^{viii} <http://www.bsp.gov.ph/downloads/regulations/attachments/2018/c992.pdf>

^{ix} <https://businessmirror.com.ph/branchless-banking-app-needs-special-license-bsp-says/>