

Review into Consumer Data Right - Rules framework
ACCC
26 Marcus Clarke Street
CANBERRA, ACT 2601
By online submission

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Wizr submission: Consumer Data Right Rules Framework- Rules framework

Wizr thanks the ACCC for the opportunity to respond to the Consumer Data Right - Rules framework consultation.

As one of the local lending industry's fastest growing neo-lenders, Wizr supports the creation of a more open approach to financial data sharing which safely drives banking innovation.

Open banking promises Australians better and fairer financial services. The experiences of consumers around the world have shown sharing financial information creates an undisputedly better deal for banking customers.

In the United Kingdom, which introduced open banking in January, experts believe as much as 20% of traditional banking profits could be disrupted through open banking-led innovation during the next five years.

Other regions have followed suit. In Europe we've seen the launch of PSD2 for the EU and in our own Asia Pacific region there have been Open API regulations in markets such as Hong Kong. All of these regions have created frameworks which both safeguard consumer data responsibilities, whilst simultaneously introduce a new era of financial innovation.

It is reasonable to suggest that Australia has much ground to make up when it comes to an open banking regime.

Personal financial data has been tightly held by banks for decades, even though there's universal agreement that it's the customer who owns this data not the companies holding it. This position from our banks had been stifling competition in the sector. It has also meant many Australians are in the dark when making financial decisions and have been limited in their ability to access products and services that can do more, tell them more and provide better outcomes for them.

Wizr joins other members of the Australian fintech industry in urging regulators to draft guidelines to the effect that Financial Institutions participating in the CDR, do so in the spirit of the framework and not with an underlying intention to circumvent or frustrate the regime. With civil penalties to enforce compliance.

Issues raised around consumer data right are far from insurmountable. Customer-authorised access to data has been safely navigated in many other industries for decades.

As part of this submission Wizr advocates:

- Ensure the phased implementation approach means Open Banking is accessible to as many responsible participants as possible, removing potential administrative roadblocks
- Include transaction metadata which is important for consumer security and the development of innovative new services
- Consider a phased approach towards data reciprocity
- Allow analysis of data for product development and marketing but prohibit the on-selling of data
- Include ACL and AFSLs in top tier of program accreditation alongside ADIs
- Provide greater clarity around Consumer Dashboard requirements
- Provide longer durations of consumer consent for data sharing for specific services
- Consider the potential unintended consequences of revocation of authorisation
- Allow intermediaries to play a role in the Open Banking ecosystem
- Ensure reporting requirements are not overly onerous for participants

Each of these recommendations has been considered below. Wizr thanks the ACCC again for the opportunity to respond to the Consumer Data Right - Rules framework consultation.

Wizr recommendation - Phased implementation (section 4.2)

The current draft framework has suggested a phased implementation of Open Banking.

Wizr understands this includes a first tranche to begin on 1 July 2019, with the four major banks to make data available for credit, debit cards and deposit and transaction accounts, with mortgages to follow on 1 February 2020.

Wizr is supportive of the fast implementation of Open Banking but also stresses the importance of ensuring the regime is accessible by as many responsible organisations as possible, as quickly as possible.

With this in mind, Wizr asks the ACCC to give particular focus on encouraging adoption by 'Accredited Data Recipients' (ADR) and creating a managed process to avoid significant delays with backlogged applications ahead of the 1 July 2019 implementation.

Many emerging financial services companies, which would likely meet the ADR criteria, have spent the past few years preparing for the arrival of Open Banking. In fact, some progressive fintechs are already building out services, apps and platforms in readiness for these major changes. For example, WisrCredit was the first service of its kind to collate and compare credit scores for consumers from multiple agencies and display it in a way that can help improve financial fitness.

These companies have also taken great strides in developing systems, policies and processes that securely provide customers with greater control over their financial data.

Additionally, data protections and standards being developed by organisations such as the CSIRO and policed by the Office of the Australian Information Commissioner, means there will be no additional risk or concerns in allowing ADRs to participate in the scheme as soon as possible.

Wisr recommendation - Metadata (section 5.3.2)

In the Consumer Data Right Rules Framework, the ACCC has highlighted it will consider whether the metadata associated with transactions should be shared in the first version of the rules.

Wisr believes overall that this information is critical for the success of Open Banking, as it allows for the development of new forms of financial services that directly benefit consumers.

For example, categorised data such as transactional merchant category codes (MCCs) for debit and credit data should be shareable. MCCs denotes the type of business or service in which a transaction occurs. They can be used by financial services organisations to help categorise and track certain types of purchases - allowing consumers to make more informed decisions about how they spend (or don't spend) their money.

Other meta data of value for customers, for such services and fraud prevention and other personal financial management services include:

- Device and OS used (i.e. phone models and operating system) during transactions could help pickup fraudulent behaviour. For example it could quickly flag a suspicious transaction in which an unknown device was used to access a banking product for the first time, at a new location or outside usual hours.
- Geolocation data is also important in creating services that are beneficial to consumers. For example, it can prompt in-the-moment services, such as reminding consumers to pay a bill when walking past a utility or health insurance company.

WISR recommendation - Reciprocity (section 5.4)

The Open Banking review provided views on what 'equivalent data' would consist of and suggested that the ACCC determine what constitutes equivalent data for Open Banking as part of the accreditation process for accredited data recipients that do not operate in the banking sector.

However, this was not a condition of the data sharing obligation that was recommended, and not reflected in the formal recommendations.

WISR agrees that reciprocity should not be a condition of entry as an 'Accredited Data Recipient' in the first release, as that has the harm of slowing down adoption. However, ACCC may give special consideration to a phased adoption strategy to ensure those that consume data as a recipient, will need to comply within a designated period of time to protect the integrity of the regime.

WISR recommendation - Accreditation process (section 6.0)

The current ACCC framework supports the development of lower tiers of accreditation and has asked stakeholders to consider the tiers that it would be practical to implement and the basis for any reduced accreditation requirements.

WISR believes that the ACCC should include a wider range of responsible organisations in its current top tier definition - beyond solely ADIs.

By including organisations with an Australian Credit Licence (ACL) and Australian Financial Service Licence (AFSL) into this top band, it would lessen the administration burden for ADR whilst continuing to ensure high levels of compliance.

ACLs and AFSLs are already the subject of considerable screening, accreditation and reporting requirements. Licensees are assessed by ASIC in its role as a regulator of the financial services industry and must meet stringent reporting conditions.

With respect to Consumer Data Right, this currently includes:

- Adequate resources (including financial, technological and human resources) and risk management systems
- Appropriate dispute resolution systems (including both internal systems and being a member of an external dispute resolution scheme)
- Ongoing compliance with the laws regulating the handling of personal information for consumer credit reporting as contained in the Privacy Act (principally in Part IIIA), the Privacy (Credit Reporting) Code 2014 (CR code) and the Privacy Regulation 2013

Wizr recommendation - Customer consent (section 8)

The ACCC proposes to make rules requiring consumer consent to be freely and voluntarily given, express, informed, specific as to purpose, time limited and easily withdrawn.

With the prescriptive way the ACCC is proposing for consent to be captured, it is highly advised that standards are developed for the different versions of consent that could be captured. Wizr believes this will address any misinterpretation by industry participants, either intentionally or unintentionally.

Wizr recommendation - Marketing (section 8)

In relation to on-selling of data and use of CDR data for direct marketing, the framework proposes to make rules that will prohibit the use of CDR data for these purposes.

Wizr believes a core objective of Open Banking and data sharing is so customers can obtain better value products and services by sharing their data. Therefore the ability for data recipients to be able to analyse and interpret shared data for the benefit of customers through the provision of alternative products and services they offer should be encouraged.

Wizr supports the notion that the on-selling of data however should not be allowed.

Wizr recommendation - Consumer Dashboard (section 8.3.2)

Under the current draft framework, accredited data recipients would be required to provide a consumer facing online interface or dashboard that shows the consumer's current and historic consents provided to accredited data recipients.

To avoid confusion and inconsistencies with the way this information may be presented, Wizr encourages the ACCC to establish a consistent format and design for the way this information is to be presented to consumers. This should serve as a non-compete aspect of the regime and avoid the temptation to differentiate on style and language.

Such clarity would both assist the development of new financial services by organisations such as Wizr, as well as remove any potential confusion from the minds of consumers.

Wizr recommendation - Consent limited to 90-day period (section 9.5)

The framework proposes to make a rule that will limit the period of authorisations to 90 days, consistent with EU requirements under the PSD2 that also limits the period of authorisation to 90 days.

This would mean re-authorisation would then be required if the accredited data recipient seeks continuing access to the consumer's data. The re-authorisation may be a simplified version of

the process initially undertaken to authorise the data holder to share the data (while still requiring strong consumer authentication).

WISR supports a strong process for consent capture and ensuring consent provided is reviewed for relevance. We also suggest that consideration be given to minimise customer disruption for services entered where longer periods of consent for the provision of data share is required.

For example, with personal financial management solutions that help customers stay on top of the finances, help them manage their investments actively, or manage their accounting are perpetual services. Having to provide consent repeated may be viewed by consumers as a nuisance.

WISR believes the framework should consider providing consumers with the ability to determine the period their consent should be valid. i.e. 90, 180 or a maximum period of 365 days. If not for the first time consent is captured, this option should be seriously considered with the re-authorisation process.

WISR recommendation - Revocation of authorisation (section 9.9)

The framework proposes to make a range of rules to help provide consumers with a straightforward process for withdrawing consents provided to accredited data recipients (see section 8.3.1) and/or for revoking corresponding authorisations provided to data holders.

Under this structure, consumers will be able to end a data sharing arrangement through either the data holder or accredited data recipient.

Given that the ACCC will enforce the need for revocation of authorisation of consent to be implemented with near immediate effect, WISR believes restricting revocation at the Data Recipient end is sufficient and not via the data holder.

Doing so, will avoid unintended consequences for the consumer such as:

- Customer accidentally withdrawing consent at the data holder end without understanding the potential implications of the products/services they are currently being provided via the data recipient which would be terminated immediately.
- Data holders may present consent information in a manner which may inadvertently encourage consumers to withdraw consent at the detriment of the data recipients (as a form of competitive response for losing their customer).

WISR recommendation - Use of intermediaries (section 12.1.3)

The ACCC has asked for stakeholder comment on issues related to the use of intermediaries.

This follows responses from the Open Banking review and Government that clearly emphasised that the CDR should be flexible enough to allow the development of alternative business models.

WISR strongly encourages that the framework for CDR is developed with the principle of maximising utility of the service and as such ensuring alternative business models, including the use of intermediary service providers to facilitate part of the value-chain.

WISR recommendation - Reporting (section 14.2-14.3)

Under the draft framework a quarterly report detailing API performance information will be required to be provided to the ACCC and a quarterly report relating to complaints and disputes will be required to be provided to both the ACCC and the OAIC.

While supportive of the direction of transparency and reporting, WISR believes quarterly reporting may prove onerous for all parties involved to either produce, or for the ACCC to consume meaningfully.

Therefore WISR's recommendation would be that any performance data in relation to SLA reporting be conducted at most annually and maintenance of complaints and disputes data be the responsibility of each entity as part of their compliance obligations to the regime, which can be audited at any time.

About WISR Limited

WISR (ASX: WZR) is Australia's first neo-lender with a commitment to the financial wellness of all Australians, through providing a smarter, fairer and wiser collection of financial products and services. WISR provides personal loans, the country's only credit comparison service with WISRCREDIT.COM.AU, apps, content and other products that use technology to provide better outcomes for borrowers, investors and everyday Australians.