

3 February, 2020

Commissioner Sarah Court
Consumer Data Right Branch
Australian Competition & Consumer Commission
23 Marcus Clarke St
Canberra, ACT 2601

Dear Commissioner Court

Re: Consumer Data Right Intermediaries Submission

On behalf of IXUP Limited, a pioneering technology company specialising in collaborative analytics on encrypted data we welcome the opportunity to provide input to the ACCC's consideration of the treatment of "intermediaries" within the Consumer Data Right regime.

The introduction of the Consumer Data Right legislation as supported by the development of the rules and the data standards has been to provide a regime which:

- Ensures continued data privacy for all consumers of their data;
- Provides a trusted regime for the accessing of approved consumer data; and
- Encourages competition by all appropriate participants offering new and valuable services to consumers;

The ACCC clearly needs to achieve a delicate balance to successfully meet these three criteria such that reliance on historical approaches to privacy does not exclude the opportunity for exciting new participants to be able to offer new and personalised services to consumers through the use of new analytical approaches.

In our view it is important to envisage new approaches to data collaboration and ensure they are facilitated in the CDR regime to facilitate on-going innovation so that the economy is not bound by legacy views on holding and sharing insights in the provision of data related services.

We strongly urge the ACCC to consider the application of modern privacy preserving analytic technologies and protocols in assessing how intermediaries and small participants can operate safely and securely with consumers in the CDR regime.

Under traditional approaches to the operation of intermediaries and aggregators specialist organisation make one to one arrangements with Data Holders to centralise the receipt and holding of consumer data for those parties. Whilst this has its benefits in bringing data together in one location to facilitate detailed analysis it creates security risks in that valuable data is centralised making it a richer source for adversaries seeking to access data for illicit use. In a commercial sense it also leads to lack of clarity as to whether the data held in the central repository by the intermediary is the latest up to date information on the consumer. We note this is overcome to some extent by the potential for intermediaries to gain API access to data and download the latest information on a regular basis, but it is not normally clear to data recipients when the intermediary last updated their records – which could be a major issue for credit related decision-making by Authorised Data Recipients.

In order to enable the key pillars of the CDR regime for “privacy” and “trust” noted above, it would mean that such intermediaries will need to offer the same level of security generally and IT security specifically as the original Data Holders (ie banks etc).

We believe that facilitation of modern privacy preserving frameworks provide a balanced way of enabling increased competition through small fintech operators to participate in the CDR regime without compromising security and trust.

We would suggest that the provision of rich data-enabled services for consumers does not specifically require the transfer of data from original Data Holders to new Authorised Data Recipients. An Authorised Data Recipient within the CDR regime is essentially looking to provide consumers with access to enriched personalised services and they only need to be able to utilise their proprietary algorithms to gain unique insights to provide those services.

By utilising a privacy preserving framework Authorised Data Recipients could access data held by Data Holders in an encrypted form and learn across that encrypted data set to gain the insight they are looking for and never need to actually receive and hold the data and without disclosing their insight request to the relevant Data Holder.

Under this approach it would enable the ACCC to accredit a wider range of Data Recipients and intermediaries to a lower level of information security on the basis that the Data Recipient will never hold the data within their own environment.

This service of enabling collaborative analytics across encrypted data during use/compute time could then be provided by either the original Data Holders or by authorised intermediaries who can achieve the higher level of Information Security to ensure appropriate security is maintained across the CDR regime at all times.

Privacy preserving analytics is at a point where it can be implemented in a practical and cost-effective way. A significant body of work on how privacy preserving analytics techniques can be applied has been published both internationally and in Australia.

The United Nations published the [United Nations Handbook on Privacy](#) Preserving Computation Techniques in April 2019 as an outline on ways in which data insights can be gained across encrypted data without the data needing to be transferred from the original data holder.

Privacy Preserving Protocol technologies have been proven to unlock tremendous value for government and regulators, banks and other financial institutions.

The Australian Computer Society has also recently released a paper of [Privacy Preserving Data Sharing Frameworks](#) (Dec 2019) which identified the key governance aspects of how data collaboration can occur in a safe and protected manner. This report reviews and encourages the use of the Five Safes protocols which were initially developed by the UK Government and adopted by the Australian Government for data collaboration across agencies.

Australia is at the forefront in reducing these frameworks to practice in a variety of ways. Significant research and practical demonstration of privacy preserving techniques has been pioneered by CSIRO's Data 61 and its privacy preserving research team is acknowledged as having some of the world's leading thought leaders in this space.

Importantly companies in Australia, which include IXUP, have combined much of their own proprietary development in this space with the Data61 work and with international outputs from companies such as Microsoft Research to develop commercial platforms that deliver genuine capabilities to enable collaborative analytics to feasibly be undertaken across encrypted data to help extend competitive offerings whilst not prejudicing consumer privacy.

The accreditation of traditional-style intermediaries and data aggregators is supported by IXUP on the basis that if they are to receive and hold data from Data Holders then they need to demonstrate the same level of Information Security as the original Data Holders and should be responsible in respect of breaches to the same extent as the original Data Holders. Intermediaries operating under this model are in fact "de-facto" Data Holders and should be held to the same standards as those original Data Holders in the CDR regime. As such these type of intermediaries should be accredited in a similar fashion as Data Holders by the ACCC and consumers explicitly advised when data is to be transferred to these intermediaries so they can make an informed decision and approve that transmission of their data.

IXUP also strongly supports the creation of a separate tiered accreditation for Authorised Data Holders who can offer value-adding services without actually receiving and holding consumer data. This would include utilising privacy preserving protocols, creating unique

service offerings, without the need to receive and hold the raw data of consumers but only gain access to key insights learnt across encrypted data held either by the original Data Holders or by approved intermediaries.

We remain fully supportive of the work being undertaken by the ACCC in the introduction of the Consumer Data Right regime and the strong support provided by the Data Standards Body in delivering a pragmatical and safe set of rules and standards for implementation.

We strongly believe countries that encourage the development and provision of advanced digital services to consumers will benefit both from the innovations themselves and the broader economic gains that new industries arising from this policy can bring with them.

We hope this submission has provided some assistance. We are happy to provide additional information if required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'W Bradey', with a horizontal line underneath.

Warren Bradey

Chief Commercial Officer