



03 February 2020

The Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

By email lodgement: ACCC-CDR@acc.gov.au

Dear Commissioners,

Consumer Data Right: Third party service providers

LAB Group Services Pty Ltd (“LAB”) understands that the lock-down version of the Consumer Data Right (“CDR”) rules released in September 2019 (“rules”) do not provide for the use of third party service providers who collect or facilitate the collection of CDR data on behalf of accredited persons (“intermediaries”).

LAB has followed the implementation of the CDR with interest and welcomes this opportunity to provide comments in response to the most recent consultation. We thank the Australian Competition and Consumer Commission (“ACCC”) for recognising the important role of intermediaries in the financial services sector.

In this submission, we first provide background on LAB and our interest in the CDR regime, and then provide our comments on a selection of consultation questions in relation to intermediaries.

Background on LAB and our interest in the CDR regime

LAB’s premier product, LABform, streamlines all aspects of customer acquisition, from expression of interest to account opening which includes electronic identity verification that complies with Australian Know Your Customer (“KYC”) regulatory obligations.

LAB was founded in 2010 and currently has around 70 customers who are mainly Australian Financial Services Licensees (AFSLs). Over the past few years, LAB has introduced several significant, innovative and customer-centric initiatives into the LABform world, including fraud detection techniques and consumer focused application management tools to streamline the account opening process.

LABform is used by our clients to enable their clients (“end consumers”) to open accounts online, where, once the application form is complete, an electronic verification is performed automatically. Therefore, within the CDR framework, LAB fits into the category of an intermediary.

We provide more detail on this set-up, including LAB’s intended use of the CDR, in the sections below.



Relevant Consultation Questions: Intermediaries

1. *If you intend to be an intermediary in the CDR regime, or intend to use an intermediary, please provide a description of the goods or services you intend to provide to accredited persons or to CDR consumers using an intermediary. Do you intend (or intend to use an intermediary) to only collect CDR data, or collect and use CDR data? What value or economic efficiencies do you consider that intermediaries can bring to the CDR regime and for consumers?*

LAB as an Accredited Intermediary

Financial market diversification, greater levels of economic activity and technological developments have created increasing opportunities for fraud and brought new challenges with regard to identity and, consequently, money laundering.

LABform has built in processes and technology that work to reduce these forms of financial crime. To further combat this growing concern that affects both businesses and customers, LAB intends to become an accredited intermediary under the CDR regime primarily in order, but not limited, to implement technology that will work to:

- reduce fraudulent activity in the financial services sector by accessing the Open Banking Application Programming Interfaces (“APIs”) at the account opening stage to confirm and validate a customers named bank account details; and
- access APIs to confirm a customers nominated bank account as an additional source of KYC validation using their name, address and date of birth; these three attributes being a common minimum standard for an electronic identity verification scorecard.

Under these, and any other intermediary scenarios in which LAB may act, LAB's client, and therefore the entity in which LAB formally contract with, is an entity that provides end-consumers who open accounts with them with a trusted and secure online account opening platform 'behind the scenes'. The only add-on to these relationships from the pre-CDR environment is that LAB would now be calling APIs and accessing data from the data holder to validate instances such as in the two dot points above.

As we understand it, under the proposed intermediary CDR regime, the intention is for both the party contracted to the end-consumer to be an ADR and the intermediary to be accredited to access data from the data holder.

LAB agree that both parties should be accredited in particular circumstances but believe there are certain set-ups that would only require the intermediary to be accredited. We have outlined examples of these two scenarios below and propose that both should be catered for in the CDR accreditation framework.

Instance 1. Where the intermediary model relies on the intermediary, whilst not interacting with the end-consumer directly, to access CDR data and *pass it on to* the ADR, LAB propose that:

- a tiered system of accreditation is adopted allowing ADRs to qualify for a lower level of accreditation if relying on the stronger security and privacy protections provided by an intermediary accredited to a higher level.

Instance 2. Where the intermediary model relies on the intermediary, whilst not interacting with the end-consumer directly, to access CDR data from the data holder *without passing it onto* the party that is contracted to the end-consumer, LAB propose that:

- the intermediary is accredited at a high level with strong security and privacy protections which allows for the party that is contracted to the end-consumer to sit outside the CDR system (i.e. not be an ADR). LAB believes this is appropriate in these circumstances as the intermediary would be:
 - accredited under the CDR to a high level;
 - accessing the data for validation purposes only, only with the consent of the consumer, and not transmitting the data outside their, or the data holders, CDR boundaries;
 - using the CDR data solely to provide a service to another party without actually transmitting it to that other party;
 - accessing the APIs to prove the accuracy of the information provided by the customer, thereby purely accessing CDR data for this purpose.

Instance 2 is reflected in international Open Banking intermediary frameworks and LAB is aware of several international third-party organisations that operate in this way.

In addition to the above, from LAB's perspective, it is not practical or commercial to require all of our customers to go through a rigorous process to become accredited under the CDR regime in order to make use of the enhanced features we would have built into the service we are already providing them in the pre-CDR environment.

Benefits of Intermediaries

LAB believes that including accredited intermediaries in the CDR is vital to realising the full potential of the regime, including:

- increasing the adoption of CDR by providing flexibility for businesses to appoint intermediaries who possess the specific technological expertise to leverage and utilise the APIs;
- reducing compliance costs for entities by enabling them to use the infrastructure provided by an intermediary; and
- facilitating the efficient and secure collection of data by parties who are bound by a strict set of accreditation principles.

2. How should intermediaries be provided for in the rules? In your response please provide your views on whether the rules should adopt either an outsourcing model or an accreditation model, or both and, if so, and in what circumstances each model should apply.

As intermediaries will be responsible for the access to, and/or transfer of consumer data, LAB recommend the ACCC embed intermediaries into the formal CDR accreditation model as described above.



3. What obligations should apply to intermediaries? For example, you may wish to provide comment on: a. if intermediaries are regulated under an accreditation model, the criteria for accreditation and whether they should be the same or different to the criteria that apply to the current 'unrestricted' level, and the extent to which intermediaries should be responsible for complying with the existing rules or data standards; b. if intermediaries are regulated under an outsourcing model, the extent to which contractual obligations should be regulated between accredited persons and intermediaries; c. if the obligations should differ depending on the nature of the service being provided by the intermediary.

As intermediaries are generally not consumer facing, rather contract with parties who do have the consumer facing obligations, the intermediary accreditation level should differ from the current unrestricted accreditation level. In this way, LAB believe that the following consumer facing CDR accreditation obligations, including but not limited to the below, should sit with ADRs/data holders and not intermediaries:

- requirement to have internal dispute resolution procedures and be a member of AFCA;
- requirement to provide consumers with a consumer dashboard that will enable them to see and manage their consents for the collection and use of their CDR data; and
- requests for deletion and de-identification of CDR data - if these requests relate to data that an intermediary has collected/accessed/used then this request should be directed from the customer to the consumer facing party, with this party then managing their intermediary to carry out the request if required.

LAB believes the substance and robustness of other accreditation obligations should apply at the intermediary level, in particular:

- the Minimum Information Security Controls; and
- the ability to utilise existing frameworks, requirements and models in developing their information security governance framework and defining security areas to the extent they adequately address relevant parts of the requirements.

4. How should the use of intermediaries be made transparent to consumers? For example, you may wish to comment on requirements relating to consumer notification and consent.

LAB believes that in order to align with the overarching principles of the CDR, the use of an intermediary should be disclosed to the consumer during the consent process. This could be built into the consent framework that has already been catered for in the CDR rules rather than creating a separate consent screen in order to minimise complexity and streamline the process for consumers.

It is LAB's view that in relation to intermediaries, the CDR consent obligations should sit with the data holder/consumer facing ADR.

Using Instance 2 above, as an example, where LAB contracts with Fund Manager A ("FMA") for instance, who is not an ADR or data holder, but relies on LAB to directly call the API and access data from the data holder as part of the service they are providing to FMA - the data holder would manage the consent obligations. This may be through their banks authentication and consent process which links into LABform.



Additional Matters

Date of Birth

LAB understand that date of birth (“DoB”) is currently out of scope for the CDR and Open Banking.

DoB can be inferred from a number of public and social media sources that can be accessed by any person. The accreditation process to become an ADR/intermediary provides a due diligence and authentication framework for this particular source with audit trail of access via the public/private key network provided by ACCC. This is far more robust than other service provider access to DoB sources (e.g. electoral role via a credit bureau).

DoB will be an essential element in many businesses CDR use cases, and therefore LAB believes the benefits of having DoB within the scope of Open Banking strongly outweighs the risks. This view is reflected in international Open Banking frameworks.

We would welcome the opportunity to stay engaged with the ACCC as it progresses in the roll out of the CDR framework.

Your sincerely,

A handwritten signature in blue ink, appearing to read 'Nick Boudrie'.

Nick Boudrie
Chief Executive Officer
LAB Group

A handwritten signature in blue ink, appearing to read 'Sharne Webster'.

Sharne Webster
Compliance Adviser
LAB Group