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Australian Competition and Consumer Commission
23 Marcus Clark Street,
Canberra ACT 2601
Submitted via email: ACCC-CDR@accc.gov.au

Consultation – Role of Intermediaries in Consumer Data Right (CDR) Rules

To whom it may concern,

Tic:Toc is a strong supporter of CDR and welcomes the opportunity to present our position on how intermediaries should be allowed for within the rules.

Tic:Toc believes intermediaries will make a significant contribution to CDR in Australia. They will expedite the transition to open banking for both consumers and providers of financial services. Intermediaries are uniquely placed to help data recipients by reducing implementation and accreditation challenges, allowing data recipients to focus on giving consumers the best financial products. The rules must recognise intermediaries and require a level of accreditation. This will allow CDR to be implemented in the consumer best interest, aligning to the spirit of CDR.

We look forward to discussing this submission further.

Regards,



Richard Shanahan
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[Tic:Toc](#)



Consumer Data Right (CDR)

Tic:Toc's response to the consultation paper on how best to facilitate participation of third party service providers.

- 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?**

[Tic:Toc](#) intends to both use intermediaries and become an intermediary in due course.

Tic:Toc has been providing the only true digital home loan to Australian consumers since 2017. A key part of the experience is our "digital validation". When our customers consent to link their financial institution account and transaction data, we automatically assess customer financial position for income, expenses, assets & liabilities and behavioural attributes in line with credit policy. To facilitate this, we use data aggregators to securely and reliably allow customers to share their data with Tic:Toc. This process is adopted by ~70% of our customers, and contributes to the high quality of assets in Tic:Toc's portfolio. This level of innovation coupled with responsible lending rigour has been lauded many times, including by [Commissioner Hayne](#) during his keynote speech at the ARCA National Conference in November 2019.

In addition to our direct to consumer proposition, Tic:Toc Enterprise offers our unique home loan origination solution to other lenders as a "Platform as a Service", with the "digital validation" experience embedded. This product has been in use by Bendigo and Adelaide Bank for over a year with their "[Bendigo Bank Express Home Loan](#)".

In February 2020 [Tic:Toc Enterprise](#) will be launching XAI Validate. This Software as a Service (SaaS) product, allows other lenders, brokers and financial services industry participants to use our proven automated financial assessment technology. XAI Validate uses artificial intelligence (AI) embedded in a seamless user experience (UX) to allow clients to view and interact with their customers' financial data as part of an application. While XAI Validate specialises in data enrichment and human-in-the-loop automated assessment, at launch we will rely on data aggregators to source the financial institution data from consenting customers.

For our AI to automate assessment of financial position with a high degree of accuracy, we must be able to:

- a. rely on the financial institution data coverage,
- b. account type coverage,
- c. information security, and
- d. guarantee of consumer privacy.

It is Tic:Toc’s belief, and is reinforced by experiences in the UK, that CDR will take a number years to satisfy these requirements. Smaller accredited data recipients face several challenges in the short term, from well documented and publicised accreditation challenges, the technical complexity of implementing the proposed CDR API endpoints, and a consent process that may introduce friction to existing customer experiences. It will also take time for the industry to fully adopt CDR even when all account types have been made available by data holders in 2021. These challenges mean intermediaries must play a role in the financial services industry.

Given their industry experience, Tic:Toc believes intermediaries (existing data aggregators in particular) are uniquely placed to soften the implementation and maturity challenges of CDR. Intermediaries will deliver economic benefits when recognised within the rules, from expediting the transition to open banking through to reducing the implementation overheads on data recipients.

Intermediaries must be able to both *collect* and *use* CDR data, as they are and will continue to be important providers of raw data enrichment. Intermediaries should also be able to offer *consent* management products adhering to the customer experience best practice agreed by industry. These products are consistent with the products already provided by data aggregators in Australia.

Table 1. Tic:Toc’s product suite and proposed role in CDR.

Business	Product	CDR Accreditation Role
tictoc.com.au	Tic:Toc Home Loans	Data Recipient
Tic:Toc Enterprise	Platform as a Service (PaaS)	Data Recipient
Tic:Toc Enterprise	XAI Validate	Data Recipient & Data Intermediary

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.

Intermediaries must be recognised as a key facilitator of CDR in Australia. Without intermediaries, CDR will favour those data holders and data recipients that have the resources to handle the onerous accreditation, technical implementation, and ongoing support obligations. The spirit of CDR embraces consumers’ right to share their data to acquire products that meet their needs. Fintechs are uniquely placed to deliver on the latter. However, CDR without intermediaries will mean Fintech participation will be stifled.

It is Tic:Toc's position that the use of intermediaries to facilitate CDR must follow an accreditation, rather than outsourcing model. This higher level of accreditation recognises the central role in the flow of consumer data, importance of a strong security framework, and the need to uphold the spirit of CDR in protecting consumer data.

Provisions for intermediaries in the rules must consider the products and services the intermediary will provide to the data recipient. This may necessitate additional tiers of accreditation based on an intermediary's access to data, as [recommended by ANZ Bank](#).

Tic:Toc suggests that the rules align intermediary accreditation requirements to the types of services intermediaries provide. For example:

- an intermediary that only *collects* data is to have a form of *restricted* data recipient accreditation with reduced accreditation requirements,
- an intermediary that both *collects and uses* data on behalf of a data recipient must be accredited as an *unrestricted* data recipient as currently defined under the rules,
- an intermediary that both *collects and uses* data on behalf of a data recipient, and builds products using aggregated data that can then be sold to other data recipients (for example, predictive models) must be accredited as an *unrestricted* data recipient as currently defined under the rules,
- an intermediary that manages consent on behalf of an accredited data recipient must be accredited as an *unrestricted* data recipient itself.

Restricted data recipient accreditation may include loosening of the current accreditation rules, including:

- insurance requirements,
- Reduced access to API endpoints, to restrict access when "sensitive data" is present.

The rules should also consider the following:

- Data recipients that wish to either build their own CDR integration or become an intermediary in their own right, should not face any commercial or exclusivity restrictions given any existing CDR-related third party agreements,
- Tic:Toc recognises that intermediaries may evolve to have data holder obligations over time. CDR should make provisions for intermediaries to become both data recipient and data holder, and
- Consideration should also be given to the fact that intermediaries may offer a hybrid solution of screen scraping and integration/consent in line with CDR. This will occur during the phased roll out account type coverage over the coming years. A true open banking ecosystem embraces consumer choice, and the rules should account for this, in turn moderating unhelpful criticism such as those suggesting [screen scrapers are "data predators"](#).

3. What obligations should apply to intermediaries?

In addition to proposed accreditation requirements, Tic:Toc recommends intermediaries satisfy the following obligations:

- accredited intermediaries should provide full coverage of the proposed [CDR API endpoints](#),

- accredited intermediaries should be required to be mandatory participants in any "test" phase for CDR roll-out. This will ensure the greatest coverage of data recipient - data holder integrations,
- where a data recipient has an existing relationship with a data aggregator that intends to become an intermediary, the data aggregator should be obliged to migrate data sources for existing services from screen scraping to CDR within six months of CDR phase implementations, if a like for like data set is available under CDR. The data aggregator should be obliged to maintain their existing API endpoints and formats for data recipients to limit data recipient integration overhead,
- an intermediary must be obliged to never disclose consumer data other than for a mandatory reporting and alerting. This includes aggregated data other than for mandated reporting purposes,
- intermediaries should be obliged to periodically publish de-identified, aggregated metrics on data holder - data recipient calls to gauge the uptake of CDR in Australia,
- if intermediaries manage the consent for data recipients, they must de-identify personally identifiable information (PII) when it is no longer required or as directed by the data recipient or consumer,
- consumers should be able to request that any of their data (non-PII) is deleted where held by an intermediary, and
- intermediaries should make their information security policies readily available to consumers and CDR participants alike.

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.

Where an intermediary is involved, the consent and/or disclaimer of a data recipient's customer experience, must specify:

- where an intermediary is involved,
- the services the intermediary provides (for example, *consent*, *collect* and/or *collect and use*),
- if *collect and use*, then how the intermediary will use the data, and
- the intermediary's contact details.

5. How should the rules permit the disclosure of CDR data between accredited persons? For example, you may wish to comment on requirements relating to consumer consent, notification and deletion of redundant data, as well as any rules or data standards that should be met.

Refer above comments.

6. Should the creation of rules for intermediaries also facilitate lower tiers of accreditation? If so, how should the criteria and obligations of new tiers of

accreditation differ from the current 'unrestricted' accreditation level, and what is the appropriate liability framework where an accredited intermediary is used?

The intermediary accreditation should allow for alternatives to "unrestricted" accreditation. Tic:Toc recommends all intermediaries are *accredited*, with the requirements aligning to the services intermediaries will offer.

Refer to question 2 response for accreditation comments.

Tic:Toc's response to the consultation on permitting CDR data to be disclosed to non-accredited third parties.

7. If the ACCC amends the rules to allow disclosure from accredited persons to non-accredited third parties and you intend to:

- **receive CDR data as a non-accredited third party, please explain the goods or services you intend to provide, the purposes for which you propose to receive CDR data, and how this may benefit consumers;**

Tic:Toc is open to considering alternatives to "unrestricted" accreditation. It is our position that recognised intermediaries within the rules should have a level of accreditation. We do not support disclosure to non-accredited third parties as this dilutes the spirit of CDR in transparency and ownership of data by consumers.

- **be an accredited person who discloses CDR data to non-accredited third parties, please explain the intended goods or services you intend to provide and how they may benefit consumers.**

Not applicable.

8. What privacy and consumer protections should apply where CDR data will be disclosed by an accredited person to a non-accredited third party?

Not applicable.

9. What degree of transparency for CDR consumers should be required where an accredited person discloses CDR data to a non-accredited third party? For example, are there particular consent and notification obligations that should apply?

Not applicable.