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Mr Bruce Cooper
General Manager
Consumer Data Rights Branch
Australian Competition and Consumer Commission
Level 2, 23 Marcus Clarke Street
CANBERRA ACT 2601

Via email: ACCC-CDR@accc.gov.au

Dear Mr Cooper

Consumer Data Rights (CDR) Rules Consultation – Draft rules that allow for accredited collecting third parties

CPA Australia represents the diverse interests of 166,000 members working in 100 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

On the broader CDR regime, **we seek urgent engagement with the ACCC to better understand the objectives of the regime and how it could impact CPA Australia members providing professional services and the consumers of those services.** To that end, we would welcome the opportunity to engage with the ACCC and provide our insights prior to the public release of future consultations.

Feedback to you from other organisations involved in earlier consultations have highlighted potential concerns. That feedback suggests there are elements of the regime that could create significant barriers to our members providing certain professional services to consumers that they currently provide. For example, if tax agents find their access to CDR data is restricted, they may either not be able to complete their client's return or they may seek that data from other sources in order to finalise a return. These other data sources may take additional time to access and our members may subject it to additional checks given it may not be from a trusted source. This would increase the time involved in the preparation of a tax return, leading to higher costs for consumers.

Further, if third parties such as accountants are required to be separately accredited by the ACCC to receive CDR data to provide professional services such as tax return preparation, this would not only add to the already large number of regulatory requirements and registrations that they are obliged to meet, but also overlap those requirements. We are concerned that this will unnecessarily add to the financial stress that members are under, which could result in many leaving the profession.

Tax agents and BAS agents are already regulated by the Tax Practitioners Board. Under the *Tax Agent Services Act 2009* they have a legal duty not to disclose information relating to a client's (or a former client's) affairs to a

third party unless they have obtained the client's permission or there is a legal duty to do so. Breaches of this confidentiality requirement can expose the tax agent to penalties, including being barred from practicing as a tax agent.

We note that there was an earlier consultation on how best to facilitate participation of third party service providers, including non-accredited third parties such as accountants and lawyers in the CDR regime. We understand that this current consultation does not impact non-accredited third parties and have been informed by the ACCC that this issue will be considered in a future consultation.

In response to the current consultation, **we recommend the ACCC includes a flow chart and examples in the explanatory statement** to help users better understand the intended application of these proposed CDR Rules to common data flows.

The development of such a flow chart and examples should be undertaken in consultation with a broad range of stakeholders, including lawyers and accountants, to ensure that the full impacts of the proposed Rules are understood and to reduce the risk of unintended consequences.

We recommend that the ACCC consults with other government agencies to develop guidance for holders of data on how to manage requests for deletion of redundant data.

The explanatory statement refers to the right of consumers to elect to delete redundant data under section 4.16 of the Rules and section 56EO of the *Consumer and Competition Act 2010*. Given that there are many Australian laws that require the retention of data, clarification is needed for the holders of that data on how to comply with such a request. Further, such guidance should consider the implications for consumers if their data is destroyed but is subsequently found to be required by another Australian law.

A common example is records required to substantiate a tax claim. Where such records are destroyed, it may have implications for the consumer's ability to claim that expenditure as a deduction (i.e., a tax agent may determine that the taxpayer is not able to make a claim without those records) or the ATO may deny the claim in a subsequent review where substantiation evidence cannot be produced.

The ability of a consumer to request the deletion of redundant records could also create opportunities for would-be criminals to continually have records deleted, thus assisting them to conceal their activities.

If you require further information on the views expressed in this submission, please contact [REDACTED]

Your sincerely

[REDACTED]

Rowena Buddee
Executive General Manager, Public Practice and Professional Standards