



10 May 2019

Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

By online submission and by email: ACCC-CDR@acc.gov.au

OPEN BANKING

RESPONSE TO CONSULTATION ON CONSUMER DATA RIGHT (CDR) DRAFT RULES (BANKING)

1. INTRODUCTION

Canstar welcomes the opportunity to respond to ACCC's CDR draft rules for implementation in the banking sector.

Canstar is Australia's original and biggest financial comparison site, established in 1992 and comparing more brands than any other in the market.¹ Canstar is a house of two brands, with Canstar Blue launched in 2010. Canstar Blue is now Australia's most trusted comparison site,² comparing over 120 consumer product and service categories.

Every month, more than 1.7 million visitors come to our websites to compare financial and other consumer products. Canstar's website at www.canstar.com.au compares a wide range of financial products in over 30 different categories from over 740 brands, including transaction, loan and credit products.³ All information provided on our websites is free to use by the public, and does not require users to enter their personal details.

Canstar and Canstar Blue are customer focussed brands and we pride ourselves on the fact that we aim to include the majority of brands in the market in our comparisons, regardless of any commercial arrangements. Canstar's and Canstar Blue's 'consumer first' services are strongly aligned with the four key principles of CDR articulated in the Farrell Report⁴:

- *Consumer focused*: It should be for the consumer, be about the consumer, and be seen from the consumer's perspective.

¹ <https://www.canstar.com.au/biggest-original/>.

² Canstar research from September 2018, n=1,021 conducted by Qualtrics.

³ See www.canstar.com.au/about. This information was verified on 9 May 2019.

⁴ Scott Farrell, *Review into open banking: giving customers choice, convenience and confidence*, Australian Government, December 2017 (paper available at <https://static.treasury.gov.au/uploads/sites/1/2018/02/Review-into-Open-Banking-For-web-1.pdf>)



- *Encourage competition.* It should seek to increase competition for products and services available to consumers so that consumers can make better choices.
- *Create opportunities.* It should facilitate opportunities for new businesses and ideas and establish a vibrant and creative data sector that supports better services enhanced by personalised data.
- *Efficient and fair.* It should be implemented with security and privacy in mind, so that it is sustainable and fair, without being more complex or costly than needed.

Canstar is excited about the opportunities presented by the implementation of CDR, and the potential benefits that it brings to consumers.

Canstar has reviewed the draft CDR rules in relation to Banking. We have carefully considered the draft rules from Canstar's perspective as a non-aligned, consumer focussed comparison service and potential Accredited Data Recipient.

2. RESPONSE TO SPECIFIC RULES

Canstar's response to the draft CDR rules are set out in the table attached.

3. OTHER POINTS FOR CONSIDERATION

3.1. Co-regulatory model

Canstar supports a co-regulatory model between the ACCC, Data61 and the Office of the Australian Information Commissioner.

We would like to particularly highlight our support for Data61's approach to developing the technical requirements of the Open Banking regime. Data61 has been open and transparent, attributes that we believe are vital for a successful, industry-wide implementation of a Consumer Data Right in Open Banking.

3.2. Open Banking API Schema

Canstar is closely following the development of the Open Banking API Schema. We believe that it is of vital importance that Data Holders use consistent APIs. Moreover, that should be standardised data inputs across institutions for each product category.

Best practice by Canstar, and the comparison industry generally, is to compare 'like-for-like' products. Customers will benefit from a comparison industry that is able to provide recommendations between products consistently, based on a consistent set of data provided by the data holders. This will result in a full picture of the market for the consumer, thus facilitating a more informed purchase decision.



3.3. Multi-factor authentication generally

Whilst we appreciate that some smaller data holders may not have the requisite infrastructure to conduct fast, efficient multi-factor authentication for the purpose of ADR data requests as compared to large data holders, we believe that multi-factor authentication will legitimise the Open Banking system. We strongly recommend that multi-factor authentication be applied to Open Banking. It is crucial that multi-factor authentication is able to be conducted in a timely manner, so as to ensure that value is driven to the consumer.

3.4. Digital implementation

Canstar strongly submits that implementation of CDR should be digital only, unless there is an overwhelming reason for a particular feature not to be digitally implemented. Part 3 of Schedule 2 in relation to joint accounts contemplates that an online service need not apply to CDR requests, authorisations and revocations by joint account holders to their data holder. It is anomalous that this should be the case, and potentially disadvantages joint account holders who would not be able to enjoy the rapid access to data provided by the dashboard and related provisions of 1, 2 and 3.

4. CONCLUSION

It is imperative that the consumer is kept at the forefront when considering the CDR rules. A recent Canstar research study into consumer sentiment showed that 56% of banking and superannuation customers are now more inclined to use third party comparators before taking out financial products in the future. As such, it is important to ensure that third party comparators, as ADRs, are given the capabilities to assist consumers in their decision making.

Thank you for the opportunity to respond. Canstar would be pleased to provide further information on any of the matters in this letter.

Yours sincerely,

Nicola Seaton
**General Counsel &
Company Secretary**



ATTACHMENT: RESPONSE TO SPECIFIC RULES

No	Issue	Rules ref	Canstar's comment
1	Response times to request	Rules 1.12(4) and 1.12(5)	<ul style="list-style-type: none"> ● Canstar is concerned about the different speed at which data holders will be required to provide information to ADRs as compared to when providing information directly to data recipients (particularly because there is no requirement for the provision of information to ADRs to be 'timely, efficient and convenient'). This could have the unintended effect of 'throttling' the ability of ADRs to provide innovative and valuable services to consumers, who rightly expect online data services to be close to instantaneous. ● Whilst we understand that third party authentication takes longer than direct authentication with a data holder's existing customers, this greatly impacts the process for ADRs. ● Canstar recommends that the CDR rules require: <ul style="list-style-type: none"> ○ that data holders provide information to ADRs at the same speed as to data recipients. There is no reason to distinguish between the two; and ○ a two-factor authentication/MFA model to improve the efficiency of the ADR service (this is touched upon further in 3.3: Multi-factor authentication generally).
2	Information security policies	Privacy Safeguard 12	<ul style="list-style-type: none"> ● Canstar considers that further information and clarity is required in relation to these policies. ● In particular, the following questions require consideration: <ul style="list-style-type: none"> ○ Do the information security requirements under the CDR rules align with ISO certification? ○ If so, is the whole company (as an ADR) required to be ISO certified?
3	Machine readable data		<ul style="list-style-type: none"> ● There seems to be a gap in the rules for individuals accessing their data in machine readable form. ● This seems fundamental to a consumer data right and Canstar recommends that a rule be inserted providing for this.



4	Allow a request to be made in a manner that is no less timely, efficient and convenient than the online services that ordinarily used by customers of the data holder to deal with the data holder	1.12 4a	<ul style="list-style-type: none"> ● The phrasing of this rule provides a loophole for bad practices and online services that are not optimised for customer experience e.g. super consolidation. ● Canstar recommends that a threshold for speed be introduced – e.g. a day/hour limit or some other measurable limit.
5	A data holder that has received a valid consumer data request made under this Part may refuse to disclose CDR data in response to the request if it has reasonable grounds to believe that the disclosure would: <ul style="list-style-type: none"> a) create a real risk of serious harm or abuse to an individual; or b) adversely impact the security, integrity or stability of the information and communication technology systems the data holder uses to receive requests, and to disclosure CDR data, under these rules. 	3.5 1	<ul style="list-style-type: none"> ● Canstar considers that there needs to be further guidance in this rule due to lack of clarity in some phrasing. ● Canstar recommends that the following terms be given definitions: <ul style="list-style-type: none"> ○ Valid consumer data request; and ○ Real risk of serious harm or abuse
6	The data holder asks the CDR consumer for authorisation to disclose CDR data in response to the request	4.2	<ul style="list-style-type: none"> ● There are two levels of request provided for in the draft rules: <ul style="list-style-type: none"> ○ “CDR consumer consents to accredited person collecting and using certain specified CDR data” and ○ “The data holder asks the CDR consumer for authorisation to disclose CDR data in response to the request.” ● Canstar considers that two levels of request are unnecessary and cumbersome for consumers. ● By contrast, Canstar notes that two levels of consent is not required when money is transferred between super funds. With super funds, the request is made once and the money is transferred. ● Canstar recommends that a similar approach be adopted in the CDR rules.



7	The data holder must, as soon as practical, ask the CDR consumer on whose behalf the request was made to authorise the disclosure of data	4.5	<ul style="list-style-type: none"> • Canstar recommends that a definition be provided for the phrase "as soon as practical". • Canstar recommends that this definition be similar to that of Rule 9.5(4) on page 71, being "as soon as possible but no later than 10 business days after receiving the request."
8	The data holder must inform the accredited person of such a refusal in accordance with the data standards	4.7 3	<ul style="list-style-type: none"> • Canstar recommends the addition of "and the consumer" after the words "accredited person". • This ensures that the consumer is kept updated.
9	(ii) collection of CDR data over a period of time of not more than 12 months	4.3 4.10 4b(ii)	<ul style="list-style-type: none"> • Is this 12 month period practicable and with the consumer in mind? Does it mirror other experiences? • Canstar considers that the consumer should have the ability to opt out e.g. unsubscribe at any time. • Canstar also considers that the consumer be given the ability to set the timeframe for data to be collected for longer than 12 months. • Canstar suggests that a rolling 18 month consent period be applied, instead of 12 months: <ul style="list-style-type: none"> o particularly for insurance products (if the 12 month period is applied, customers may conduct comparison 1 month before renewal – buy product – 12 months finishes before next renewal is due).
10	While a consent to collect particular CDR data is current, the accredited person must notify the CDR consumer who gave the consent, each 90 days, that the consent is still current.	4.14	<ul style="list-style-type: none"> • Is this practicable, with the consumer in mind? Does it mirror other experiences? • Given the value of the solutions created through Open Banking rests on the recency of data, this could cause a barrier to usage, as well as a friction point for the user if they are required to confirm consent every 90 days.
11	A joint account management service (as defined) "may but need not: <ul style="list-style-type: none"> (a) be online; and (b) include a functionality that permits the joint account holders to: (i) elect, to the satisfaction of the data holder, that both joint account holders will be 	Sched 2 Part 3.2 (2)	<ul style="list-style-type: none"> • If the joint account management service is not provided online, and does not permit elections and revocations, then the effect of this provision will be to create a two tiered CDR regime with single account holders enjoying a rapid, efficient online service, and joint account holders potentially required to use a slow, inefficient and potentially risky paper based system.



	<p>able to perform the tasks referred to in subparagraphs (1)(a)(i), (ii) and (iii) together; and (ii) revoke, to the satisfaction of the data holder, such an election.”</p>		<ul style="list-style-type: none"> • Canstar considers that joint accounts should be managed via the same online dashboard system as applies in Division 1.4. • The requirements of Sched 3.2 (3) could take weeks or even months to implement if an online system is not used. • Response times should be mandated in relation to joint account holder requests (see No. 1 above)
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