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To Whom It May Concern,

## **Re ACCC Consumer Data Right – Accredited Data Recipient – Intermediary Models published on 30 Sep 2020**

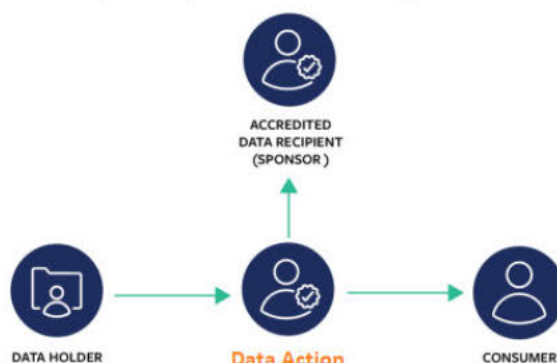
Data Action (DA) is a technology company that provides banking products and services directly to financial institutions (FI's). We provide outsourced banking technology related services to a range of APRA regulated clients.

We welcome the opportunity to provide a response to the ACCC Consumer Data Right - Accredited Data Recipient – Intermediary Models Consultation Paper published 30 September 2020. DA strongly supports Consumer Data Right (CDR) and Open Banking and appreciate the ACCC's engagement with the industry to expand rules to support growth and innovation.

### **Background**

DA's current understanding of the CDR requirements is that DA is a key stakeholder and guardian of our client's CDR data, where our clients act as a Data Holder. In this capacity, DA is not required to seek additional accreditation. In essence, the DA operated Data Holder environment will be extended for use by our clients where the client is an Accredited Data Recipient.

In this model, DA acts as a service provider to an Accredited Data Recipient. Under the usage terms and approval as defined by the consumer, DA would store data collected from a Data Holder. For example, consumers would be able to see their data collected from another financial institution via a client branded internet banking platform which is provided under contract by DA. This relationship is depicted in the diagram below.





## Consultation

DA has reviewed the Consultation Paper and would like to provide a response on several sections.

*Consultation Paper Section 3. Increasing the number and types of businesses that can participate in the CDR*

DA has reviewed the various proposed models for restricted accreditation for Accredited Data Recipients. DA appreciates the intent of the revisions to increase participation by taking a risk-based approach to accreditation. However, DA has been unable to identify the most appropriate accreditation tier applicable for DA's business model:

- **Data enclave accreditation** - DA does not operate in an enclave provided by the clients, rather, we store data on behalf of our clients.
- **Limited data restriction** - DA intends to collect the full range of consumer data in scope for the Consumer Data Right on behalf of our clients, including transaction data. DA already provide products and services whereby we collect and store the full range of CDR data for customers and members of our clients for other purposes.
- **Affiliate accreditation** - DA would provide and support products and services branded by our clients. This implies to consumers that our clients will be collecting the consumer data from the Data Holder and not DA.

Based on our understanding, DA does not fit into any of the above accreditation tiers and would be considered as unrestricted.

DA believes that this does not meet the intent of the approach to accreditation as it will raise rather than lower the barriers to entry for an entity like DA. Risk-based approaches to reduce the upfront and ongoing cost of accreditation should be permitted to a company like DA based on our business model.

For example, DA never interacts with consumers directly, so the establishment and maintenance of a comprehensive internal and external dispute resolution scheme would be a significant compliance burden for DA. This would significantly increase costs for DA with little to no consumer benefit and would therefore impair innovation and competition.

*Recommendation:* We recommend that the CDR Rule be amended to clarify the treatment of a technology outsourced provider who has no direct relationship with clients either through the expansion of existing Accreditation Tier definitions or the creation of a new Accreditation Tier.



*Consultation Paper Section 7. Facilitating improved consumer experiences*

DA would like to highlight a concern with the current drafting of the CDR Rules in relation to declarations and disclosures seeking consumer consent. Specifically, Section 4.11(3)(f) requires DA's position as an outsourced service provider to declare and disclose their CDR policy for the benefit of banking consumers.

By the nature of DA's business model, banking consumers who are customers of DA's clients (FI's) are generally unaware of any arrangement that their FI has with DA, nor that DA exists. DA provides products and services directly to the FI, not the banking consumer. The branding of consumer experiences within DA's online banking platforms is that of DA's clients, that is, the FI's.

DA's concern with the current approach is that all outsourced service providers are treated collectively. This will have the potential to erode the trust of end consumers and discourage them from sharing data. Additionally, DA acknowledge it might be cumbersome and commercially sensitive information for our clients to provide this information with minimal benefit to the end consumer decision set.

*Recommendation:* We recommend that the ACCC consider the disclosure requirements for circumstances involving a technology outsourced provider who has no direct relationship with banking consumers. This could be through an amendment to existing Accreditation Tier definitions or the creation of a new Accreditation Tier.

We welcome the opportunity to provide any clarification or to discuss these views with the ACCC as required.

Kind Regards



Brett Miller

**Chief Digital and Information Officer**