



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

Dear ACCC,

Plaid appreciates the opportunity to submit comments in response to the ACCC's Consultation Paper on the potential updates to the Consumer Data Right ("CDR") regarding accreditation, consent and user experience, issued 30 September 2020. As a financial data aggregator operating in the US, Canada, UK, Ireland, France, Spain and the Netherlands, Plaid plays an important intermediary role in empowering consumers to access data about themselves, and direct that data to be shared with apps or services of their choice. Plaid has been actively engaging in the dialogue about the CDR and we refer you to our earlier comment letters dated 10 February 2020 and 20 July 2020.

We are encouraged by the recent updates to the CDR that incorporate intermediaries to provide greater efficiency in consumer data sharing. In this comment letter we wish to specifically address the proposed changes outlined in Section 7.2 of the Consultation Paper, regarding consumers' ability to amend their consents. We believe that in principle consumers must be given the proper controls to manage their data, and that when consent management provision falls solely to data holders there can be competitive interests that may interfere with consumers' data rights. Therefore, we believe that the ACCC should strongly encourage accredited entities other than data holders to offer consent management dashboards.

### **Consumers Should Have Strong Controls Over Their Consents**

In the context of consumer data sharing, consent management is a critical piece of consumer control. By providing consumers the ability to amend their consent, they can better engage and take action upon the data sharing connections they've chosen to establish. As such, we are supportive of the proposed updates to the CDR rules that would enable consumers to amend their consents.

Specifically, in response to Question 32 in the Consultation Paper, we believe that accredited persons should be strongly encouraged to offer consumers the ability to amend consents in the consumer dashboard. Moreover, as further outlined below, we believe that any such consent management tools should be designed and delivered in a neutral way, to prevent any actors in the ecosystem from influencing consumers' consent management choices.

### **Consumers, Rather Than Data Holders, Should Control Their Consents**

Based on Plaid's experience in certain jurisdictions in which we operate, we've encountered policies that allow market actors who are not consumers themselves to manage consumers'



consent on their behalf. This is particularly concerning in cases where market actors may have competitive interests with third parties whose services are reliant on the data consumers have consented to share. For example, if a data holder sought to prevent their customer from using an accredited third party's service, they could add language to the consent dashboard influencing consumers to make consent management decisions that would affect their usage of that third party's product.

### **Lessons From the UK Open Banking Standards**

The approach to consumer consents in the UK is informative. The UK Open Banking Standards have been developed to ensure consumers go through a simple and consistent authentication journey. However, in our view, that does not go far enough in providing consumers control over their financial lives. Even with clear industry-wide standards consumers still struggle to fully understand who they have given their consent to and how to remove or revoke that consent.

The UK Open Banking Implementation Entity introduced a requirement for Third-party providers ("TPPs") to create consent dashboards that would give consumers a one-stop-shop for monitoring their consents. Done effectively, consent dashboards increase transparency and give consumers more control over their data, ultimately building their trust and willingness to use more products and services that rely on their financial data. But in the UK a lack of clarity means consumers struggle to manage their consents and disengage with their finances. This is why it's important that with consent dashboards each party (i.e. data holder, accredited person and consumer) needs to clearly understand their role in helping consumers manage and engage with their consents.

In general, control of data flows must be in the hands of consumers, not of any other party. In practice this means that consent management must be available to consumers wherever they feel most comfortable controlling their data. This may be with their data holder, or it may be with an intermediary or accredited party. To ensure consumers maintain this control, the ACCC should encourage accredited parties to offer consent management dashboards to their customers.

We appreciate your consideration of these comments.

Sincerely,



Benjamin White  
Policy R&D, Plaid