



20 July 2020

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

CDR Rules Consultation – Draft rules that allow for accredited collecting third parties (‘intermediaries’)

To whom it may concern,

Tic:Toc is a strong advocate for CDR and the important role intermediaries will play in the development of the emerging Open Banking powered economy. It is Tic:Toc’s view that the Combined Accreditation Person (CAP) arrangement provides a best-fit approach to facilitating intermediaries within CDR.

While Tic:Toc is broadly supportive of the proposed Rules, we seek to highlight where it is ambiguous and the effect this will have on the consumer experience. It is important to note that we have advocated for the role of intermediaries in CDR to ensure consumers maximise value from Open Banking. If the Rules do not allow for adequate provider participation or create inefficiencies in the principal-provider relationship, then the consumer will not benefit to the level anticipated.

We look forward to discussing this submission further.

Regards,



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[Tic:Toc](#)



Combined Accredited Person (CAP) arrangement

Tic:Toc is of the opinion that the CAP arrangement addresses the main challenge highlighted in [previous consultation with the ACCC](#) on the role of intermediaries. That is, allowing accredited data recipients to make use of intermediaries whose ability to manage consent, integration, governance is comparatively more advanced.

The Tic:Toc perspective is unique in that we intend to both use intermediaries for the [Tic:Toc Home Loans](#) business and become an intermediary in support of the Enterprise [tictoc.ai](#) business in due course. In both instances Tic:Toc currently makes use of data aggregators to source raw banking data, which we then materially enhance to drive responsible, automated assessment of financial position.

Tic:Toc's main points of clarification with the proposed Rules and how they may be interpreted are summarised below.

Accreditation barriers have not been addressed.

The CAP arrangement requires both the principal and the provider to have "unrestricted" data recipient access. The inhibitive data recipient accreditation process has been much acknowledged by industry and consulted on as part of the initial [role of intermediaries in CDR consultation](#).

It is Tic:Toc's opinion that intermediaries must have the most rigorous "unrestricted" data recipient accreditation; however, the consumer-facing data recipient should be able to have alternative accreditation options, especially when they do not receive/hold CDR data as part of the product offering. While this may incentivise the uptake of intermediaries in the industry, it allows for more responsible regulation and scrutiny of the parties holding and enhancing CDR data. At the same time, it allows consumers to benefit from greater choice in financial products through an increased prevalence of data recipients offering financial services solutions.

Consumer data "surface area" greatly increased.

Under a CAP arrangement consumer data may be transported and persisted amongst four parties: the consumer, the data holder, the accredited data recipient ("principal") and the intermediary ("provider"). Section 4.11.3 (i) of the proposed Rules requires the principal to disclose where a provider may be used by specifying the fact, the provider's name, accreditation number, CDR policy, and where the consumer can find further information.

This increased data surface area may not be necessarily understood by the consumer, and highlights the importance of two aspects that the ACCC and industry must do more to promote:

- best practice information security controls are critical to ensure appropriate handling of data in transit and at rest; and
- more must be done by the industry to educate consumers and data recipients alike as to their responsibilities under CDR.

Variations in the CAP arrangement

Tic:Toc has been a well-known industry player with an “open banking” philosophy for a number of years. We can conceive variations in the CAP arrangement, which are ambiguously dealt with under the proposed Rules or not at all. We propose further clarification from the ACCC is given to guide whether these should be addressed in the Rules or are handled within individual provider-principal agreements.

- Multiple provider arrangements: principals may choose to have multiple CAP arrangements in place to deliver the best products to consumers. For example, one to manage consents, another to manage collection, and yet another to perform “material enhancement” of CDR data. In this situation an interpretation of the draft Rules could be such that the principal would need to have a CAP arrangement with each provider, and that each provider would need “unrestricted” data recipient accreditation.
- Providers reselling services from participants without “unrestricted” data recipient accreditation: it is not uncommon for parties that currently perform a function similar to the proposed provider within the CAP arrangement, to either resell products to consumers or for principals to use such services in their own processes. In this situation CDR data may flow between the parties. This would not be provided for under the current interpretation of the Rules.
- Providers offering consumers products directly: the proposed Rules allow for providers in a CAP arrangement to engage directly with consumers to facilitate a principal’s product offering to a consumer. It is conceivable that a provider may be able to leverage their position to offer the consumer alternative product offerings from similar principals. This “disclosure” is not currently provided for under the existing or proposed Rules.

Commercial viability of CAP arrangements

The ACCC must recognise that the cost of service of a CAP arrangement compared to digital data capture will be significantly higher. This acknowledges the increased accreditation costs, ongoing compliance, and development effort. This may result in reduced uptake of CDR, while digital data capture is still permitted, which may ultimately lead to pass-through costs to the consumer from the principal - either directly or ambiguously - in product pricing.

Clarification on interpretation of obligation breach

Section 1.10A.4 (b) (ii) states that a “breach of an obligation by the provider is taken to also be a breach of that obligation by the principal”. The ACCC needs to clarify whether a provider breach in an obligation is relevant to the individual CAP arrangement or all CAP arrangements the provider may have with other principals. This is an important clarification as there will be far fewer providers than there will be principals, and those providers will service many principals.

Test period for intermediary

Given the importance of intermediaries to the penetration and effectiveness of CDR, Tic:Toc recommends the ACCC initiate a “test” phase with a selected group of providers and principals. This could be like the initial data recipient – data holder test phase, which highlighted areas of improvement for the Rules and



participants. It will also lead to the development of “best practice” CAP agreements as a template for industry.

Minimum information security controls

Tic:Toc is a strong advocate of the addition of the ‘encryption in transit and data segregation’ requirements applying to both provider and principal, where CDR data is consumed.

It is important for the ACCC to acknowledge that many providers will operate modern architectures that use “multi-tenanted” solutions with customers (i.e. principals) “logically separated”. This approach ensures only accredited and authorised parties can access their consumers’ CDR data. Tic:Toc recommends the ACCC acknowledge this approach as an appropriate control for ensuring data segregation.