



24 October 2020

Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Via Email: ACCC-CDR@acc.gov.au

Dear Sir/Madam,

Consultation — *Consumer Data Right* rules expansion amendments

As a major Credit Reporting Body in the Australian credit landscape, illion (formerly Dun & Bradstreet Australia and New Zealand) welcomes the opportunity to provide this submission to Treasury, regarding the proposed amendments to Part IVD of the *Competition and Consumer Act 2010* (CC Act) in relation to the Consumer Data Right (CDR) regime.

illion is a strong supporter of the implementation of a CDR in Australia and we have recently been accredited as an Accredited Data Recipients for our Open Data Solutions and Credit Simple businesses.

Our views on the CDR framework are well established — it will provide substantial benefit to financial services consumers, transforming the way they interact with the banking system by providing the ability and tools to safely share data with different lenders, other financial institutions and FinTech companies. In doing so, consumers will be able to access the most appropriate and economical financial products to suit individual needs. Likewise, granting access to consumer data will ensure providers will be able to offer innovative products at more competitive rates. illion believes that intermediaries, such as credit reporting bodies, will be critical to the practical implementation of the CDR in Australia, beginning with Open Banking and now the energy sector.

In many ways we are Australia's oldest FinTech. We have been in the data market in Australia for over 130 years so we have deep industry expertise. We have set up our own FinTech, Credit Simple, now with over one million members in Australia. We also run FinTech's, including subsidiary illion Open Data Solutions (formerly Proviso), the leading aggregator of banking data in Australia.

illion's digital infrastructure is relied upon by over 15,000 corporate and government clients, and over 1.3 million consumers. It is vital that regulatory reforms in our sector satisfy consumer demands and continue to foster an environment that enables agile data solutions.

About illion

illion is a data and analytics business, operating in Australia since 1887. Using extensive credit and commercial databases, we assist banks, other financial services providers and other businesses to make informed credit and risk management decisions, and help consumers access their personal credit information. Our data assets, combined with our end-to-end product portfolio and proprietary analytics capabilities, enable us to deliver trusted insights to our customers in the banking and finance industry and facilitate confident and accurate decision making. illion is highly invested in the Australian market with over 130 years of data history and experience.

General Comments

illion welcome the ACCC introducing further amendments to the current CDR rules. illion were encouraged by the introduction of the Principle Provider model in the most recent rules amendment, however our view was that this change did not go far enough and considerable barriers to entry still exist in the current regime that will prevent the full adoption of CDR. This position is informed by the knowledge of the costs and effort illion have incurred to achieve unrestricted accreditation as an Accredited Data Recipient, which we estimate in the order of \$250K.

In this submission we will provide a general response to the proposals and answers to the specific questions raised in the Consultation Paper.

Introduction of new accreditation levels

Given illion's concerns about the cost of accreditation acting as a barrier to adoption, we welcome the introduction of tiered levels of accreditation.

We are concerned however that the changes proposed are overly complex, and still do not address the market need for all participants to have a path to access CDR data without introducing expensive accreditation requirements.

We would encourage a simpler tiering structure that leverages an intermediary model (where the intermediaries are required to have unrestricted accreditation) and requires that the intermediaries implement the consumer permissions model and provide access to CDR data. The intermediaries act as the gatekeeper of the CDR data, ensuring correct controlled access, whilst allowing the intermediary to provide the CDR data (without restriction) to third parties. The third parties could be required to hold a very low level of accreditation, or potentially no accreditation.

illion do not believe any additional rules need to be defined for the final recipients of the CDR data in an Intermediary model as described above as the privacy of the Consumers data is already governed by the Privacy Act.

A model such as that described above would closely align to the way in which consumer credit information is managed and controlled by consumer credit bureaus, and would allow access to CDR data in a controlled fashion, governed by the Privacy Act and without introducing barriers of entry to recipients of the data.

Provide greater choices for consumers about who they share their data with

Trusted advisors play a crucial role in the financial sector, for example over 55% of mortgages in Australia are arranged through a mortgage broker. Trusted advisors have a need to access consumers banking data, both at the product and transactional level, in order to provide services to

their clients. These types of services are typically provided by small businesses who would be unable to meet the current or proposed accreditation requirements, effectively locking them out of CDR. Consequently, illion strongly support the ability for these Non-Accredited Person's to access the Consumers CDR data, with the consumers consent, and under the control of an Accredited Data Recipient.

We note that in order to provide the services that they provide, Mortgage Brokers, Tax Advisors and Financial Advisors are likely to require access to the raw transaction data (not just summarised content) so we strongly argue that the data provided to the Trusted not be restricted.

We note that the model for provision of data to trusted advisors by an Accredited Data Recipient mirrors the intermediary controlled access model suggested by illion above. Our recommendation would be that to simplify access this model be extended to enable access to any entity on the basis that the consumer has permitted that access and that access is controlled by an Accredited intermediary.

Increase consumer benefit

Finally, illion strongly support the extension of CDR to business accounts, enabling the benefits of CDR to extend beyond personal banking arrangements. However, we feel that the proposals to extend authorisation to secondary users of individual accounts appear to be an overly complex extension for very little gain.

Consultation questions

1. We welcome comments on the proposed timeline for the proposals referred to in the CDR Roadmap.

- *We support the need to quickly define new CDR rules, given organisations such as ours are already in the process of developing Open Banking solutions. We therefore encourage the ACCC to ensure that the timetable of mid-December is achieved.*

2. The proposed rules include three discrete kinds of restricted accreditation (i.e. separate affiliate, data enclave or limited data restrictions). We welcome views on this approach and whether it would provide sufficient flexibility for participants. In responding to this question, you may wish to consider whether, for example, restricted accreditation should instead be based on a level of accreditation that permits people to do a range of authorised activities.

- *As per our commentary in the general response above, our view is that the proposals are overly complex and un-necessary barriers to entry remain.*

3. We also welcome views on alternative risk-based restrictions that could apply to a lower level/s of accreditation, as envisaged by the Open Banking Report, including views on whether, and in what way, an approach based on volume (for example, volume of customers or customer records).

- *See response to question 2.*

4. What are your views on the low to medium classification of risk for the data set out in Table 1?

- *The proposal appears overly complex, restrictive and potentially hugely complex to implement and police, whilst still imposing significant costs on organisations wishing to achieve restricted accreditation. It is hard to see the commercial opportunities that restricted access enable would outweigh the costs of accreditation.*

5. Are the accreditation criteria that apply to a person accredited to the restricted accreditation level (limited data restriction) appropriate for that level?

- *See response to question 4.*

6. Do you consider the restricted level (limited data restriction) would encourage participation in the CDR? What are the potential use cases that this level of accreditation would support, including use cases that would rely on the scope of data available under this level increasing as the CDR expands to cover new sectors beyond banking?

- *See response to question 4.*

7. Do you consider the data enclave restriction would increase participation in the CDR? Where possible, please have regard to potential use cases in the banking sector and future CDR sectors.

- *This also seems an overly complex model which would not be required if the accredited intermediary were able to provide unrestricted access to CDR data.*

8. Should the combined accredited person (CAP) arrangement between an enclave provider and a restricted level person include additional requirements, for example, in relation to incident management between the parties?

- *See response to question 7.*

9. Should there be additional requirements under Part 1 of Schedule 2 for enclave providers in relation to the management of data enclaves?

- *See response to question 7.*

10. Do you consider the affiliate restriction level would increase participation in the CDR? Where possible, please have regard to potential use cases in the banking sector and future CDR sectors.

- *Of all the proposed models the affiliate model most closely matches illion's view of the way in which Intermediaries could act as a controlled gateway to the CDR, with the affiliate acting as the Sponsor in this model. As such we support this model and believe it has the potential to increase participation.*

11. Should there be additional requirements under Part 1 of Schedule 2 for sponsors?

- *No response.*

12. Where a sponsor and affiliate rely on a CAP arrangement, should the CAP arrangement include additional requirements, for example, in relation to incident management between the parties?

- *No response*

13. The draft rules envisage that all of Schedule 2 will apply to an affiliate of a sponsor. However, depending on the relationship between the sponsor and the affiliate, there may be options to reduce the risk associated with this model which in turn could result in less controls being relevant for some affiliates. We are interested in views on whether a distinction could, or should, be made for different levels of access to data between sponsors and affiliates (some examples below), and, if so, what approach to assurance of the information security criterion may be appropriate.

Example level 1: affiliate is able to obtain access to any CDR data collected by the accredited sponsor and all data is held and managed on the affiliate member's systems.

Example level 2: affiliate is able to access all data sets, but uses some of the sponsor's systems and applications to access or manage the data.

Example level 3: affiliate obtains access to a limited amount of CDR data held by the sponsor, or entirely

- *We would encourage the broadest possible access to CDR data, whilst relying on the sponsor to ensure CDR data is accessed and protected correctly, whilst avoiding placing onerous accreditation requirements on the sponsor.*

14. We consider that in the case of a CAP arrangement, it is appropriate for the principal (having the relationship with the consumer) to be responsible for ensuring that customer-facing aspects of the CDR regime are delivered (for example, dashboards and any customer-facing communications, including in relation to dispute resolution). We welcome views on this position.

- *We do not encourage any limitations on where these requirements are met, the market should be free to determine whether there is commercial value in providers meeting the needs of principles in the provision of these services*

15. Should consumers be able to consent to the disclosure of their CDR data at the same time they give a consent to collect and a consent to use their CDR data?

a. Is the proposed threshold for being able to offer an alternative good or service in rule 7.5(3)(a)(iv) appropriate?

b. The transfer of CDR data between accredited persons will be commonly facilitated through commercial arrangements. Should those commercial arrangements be made transparent to the consumer and, if so, to what extent?

- *No response*

16. To which professional classes do you consider consumers should be able to consent to ADRs disclosing their CDR Data? How should these classes be described in the rules? Please have regard to the likely benefits to consumers and the profession's regulatory regime in your response.

- *Illion encourage that the widest possible definition is used to enable access under this mechanism.*

17. Should disclosures of CDR data to trusted advisors by ADRs be limited to situations where the ADR is providing a good or service directly to the consumer? If not, should measures be in place to prevent ADRs from operating as mere conduits for CDR data to other (non-accredited) data service providers?

- *We see similarities between provision of CDR data using this mechanism and the way data is accessed in the Consumer Credit Bureau. As such it makes sense that access is controlled by a fully accredited data recipient (as proposed) and that access is only provided for a permitted purpose and with informed consumer consent, in the same way access to the Consumer Credit Bureau is only permitted under specific circumstances.*

18. Should disclosures of CDR data insights be limited to derived CDR data (i.e. excluding 'raw' CDR data as disclosed by the data holder)?

- *No. The purpose here is to use CDR as a mechanism to facilitate the transfer of the consumers information with the consumers consent, if the consumer has consented we do not see the need to introduce additional restrictions?*

Transaction level data can already be provided by a consumer to, for example, a mortgage broker either by providing a printed bank statement or through the use of Digital Data Capture. If CDR is going to replace these mechanisms then unrestricted access must be permitted.

19. What transparency requirements should apply to disclosures of CDR data insights? For example, should ADRs be required to provide the option for consumers to view insights via their dashboard, or should consumers be able to elect to view an insight before they consent for it to be disclosed to a non-accredited person?

- *As per the response to question 18 we believe transactional data and insights should be permitted to be transferred (as can be achieved through existing methods). Creating new requirements such as the need for a customer dashboard will just introduce additional costs for the providers of services to meet these requirements, these costs will in turn be passed on to the trusted advisor and ultimately to the consumer. The consumer already has access to the data so mandating another mechanism through which they can view their data appears to be unnecessary.*

20. We are seeking feedback on the proposal for enabling business consumers (both non-individuals and business partnerships) to share CDR data.

- *Illion welcome an extension of the ability to use CDR to access data to business accounts as it will enable the benefits of CDR to benefit the business community.*

21. In particular, we welcome comment on the proposal to require a data holder to provide a single dashboard to business consumers which can be accessed by any nominated representative to manage CDR data sharing arrangements.

- *Our concern is that this creates a further cost burden on commercial providers of solutions, with the resultant cost being passed on to the business in this case. There is no evidence that there is any need for this solution. We would suggest less prescriptive rules that allow the market to determine what solutions are needed to manage existing consents.*

22. Are there other implementation issues the ACCC should be aware of in relation to the proposed rules for CDR data sharing by non-individuals?

- *No response*

23. We welcome comment on the proposed approach to require data holders to treat business partnerships in line with the approach for dealing with business consumers? Do you foresee any technical or other implementation challenges with taking this approach for business partnerships that the ACCC should take into account?

- *No response*

24. Should additional protections be introduced for personal information relating to business partners who are individuals?

- *No response*

25. Are there other aspects of the rules that may require consequential changes as a result of the enablement of business consumers? For example, are the internal dispute resolution requirements appropriate for business consumers?

- *No response*

In conclusion, we welcome that the ACCC is consulting on further changes to the CDR rules, and we welcome the changes aimed at making CDR data more widely available, with lower barriers to entry.

However, in general the proposed rules seem to be over complicated. We would strongly encourage that a much less prescriptive approach is taken that allows a consumer, with consent, to enable their data to be used third parties, which we understand to be the objective of the CDR.

Should you have any questions or concerns arising from this submission, please feel free to contact Richard Atkinson, General Manager – Consumer Risk and AML at any time via

[REDACTED].

Yours sincerely,

[REDACTED]

Richard Atkinson
General Manager, Consumer Bureau