



7 October 2016

EDR Review Secretariat
Financial Systems Division
Markets Group
The Treasury
Langton Crescent
Parkes ACT 2600

Online submission only: <http://consult.treasury.gov.au/financial-system-division/dispute-resolution>

TREASURY REVIEW OF EXTERNAL DISPUTE RESOLUTION SCHEMES

As Australia and New Zealand's leading credit bureau and collections group, the Dun & Bradstreet Australian and New Zealand group of companies (**D&B**) welcomes the opportunity to make a submission to The Treasury in respect of the current operation of Australian external dispute resolution schemes (**EDRs**) in the context of its review of the financial system. The Financial Ombudsman Service (**FOS**) and the Credit and Investments Ombudsman (**CIO**) are the two EDRs that are potentially relevant to D&B's operations, and this submission comments on those two EDRs as a part of the dispute resolution framework for the financial system.

Selected questions and answers are presented below.

1. Principles Guiding The Review: Are there other categories of users that should be considered as part of the review?

Primary users have been defined as consumers and financial services providers that are respondents to complaints. The other category of user that must be included is the category of data intermediaries in the financial system, particularly consumer credit reporting bodies (**CRBs**) that act as a lynchpin in the efficient distribution of consumer creditworthiness information in the financial system.

They are different from other users (and arguably need to be treated differently from other users) because they are neither consumers nor credit providers and thus act independently to uphold the Privacy Act 1988 (Cth) and the related mandatory Privacy (Credit Reporting) Code of Conduct (**Privacy Laws**) in respect of consumer creditworthiness information.

D&B's CRB is DBCC Pty. Ltd trading as Dun & Bradstreet Consumer Credit. (DBCC). DBCC requires that, among other things, reasonable steps are taken by financial services providers to ensure that data is kept accurate, complete and up to date, and protected from unauthorised access, use and



disclosure. The obligations that CRBs have to audit financial services providers in respect of these Privacy Law obligations attest to the separate, distinct and independent position of CRBs in the system.

8. What are the relative strengths and weaknesses of the schemes' relationships with IDR processes?

IDR is an essential pre-requisite before a CRB is involved in a complaint, as CRBs are the data intermediary and not the original source of the creditworthiness information. The IDR process allows this explanation to be given to the consumer, and allows the CRB to liaise with consumers and financial services providers to determine what further steps (if any) need to be reasonably taken to ensure accurate information is shared *before* the EDR process commences if still required.

4 Principles Guiding The Review: In determining whether a scheme effectively meets the needs of users, how should the outcomes be defined and measured?

and

18. To what extent do the current arrangements allow each of the schemes to evolve in response to changes in markets or the needs of users?

D&B believes that all of the principles noted: efficiency, equity, complexity, transparency, accountability, comparability of outcomes, and regulatory costs are important and appropriate for the definition and measurement of EDR effectiveness.

Of all of these, D&B believes that efficiency is the defining measuring principle, with the other principles being indicators of price outcome efficiency and non-price outcome efficiency.

The review must note that the current multiple EDR system has allowed for the market to determine efficiency, adapting and evolving to changes in the financial system and the specific needs of users. The ability of competition to drive efficiency is a principle well accepted by The Treasury. The Australian Competition and Consumer Commission exists to promote competition and regulate monopolies to avoid inefficiency.

There is no justification for the creation of a single entity not subject to competition, in an environment where there are natural incentives within the current multiple EDR system to promote price and non-price efficiency in dispute outcomes.

D&B is not of the view that additional statutory controls, additional bureaucracy, an additional tribunal or other such body would result in quicker, more accessible, dispute resolution. D&B is supportive of greater consumer education as a joint initiative of CIO and FOS (perhaps, as CIO has suggested, a consumer helpline or helpdesk). To the extent that there are points of policy



clarification, guidelines, or user education required to more quickly resolve disputes, ASIC and the Privacy Commissioner are able to do so in a way that applies uniformly to all EDRs under their current statutes.

Both FOS and CIO have funding arrangements that include membership fees and fees for the management of disputes. This “user pays” system creates a natural incentive to efficiently deal with disputes in a cost effective, equitable, efficient, transparent and accountable way. D&B strongly supports the maintenance of competition between EDRs.

D&B does not believe that there is any substantiation for the view expressed at paragraph 58 of the Issues Paper that CIO’s 70% funding from membership fees (giving it a stable financial base not reliant on the number of disputes) “may provide less incentive to settle or reduce the volume of disputes”. This is not D&B’s experience with CIO. This also misses the point that financial services providers and CRBs only join EDRs to resolve disputes; choice of EDRs allows these users to select the EDR they believe can most efficiently deal with the time and cost impost involved in dispute resolution.

From an information sharing perspective, D&B believes that the existing memorandums of understanding between FOS and CIO mentioned in paragraph 40 of The Treasury Issues Paper effectively deals with information sharing and access to resolution issues that may arise if members change EDR.

D&B remains at your disposal to discuss these issues in more detail. D&B would welcome the opportunity to further discuss our position on these matters with relevant stakeholders.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Ian Kaplan'.

Ian Kaplan
Director – Bureau Operations