

23 March 2017

The Treasury
Langton Crescent
PARKES ACT 2600

By email: data@treasury.gov.au

Dear Sir/Madam

Review into Open Banking in Australia

The Insurance Council of Australia¹ (the Insurance Council) appreciates the opportunity to make a submission in response to the Review into Open Banking (the Review). While the Review is focussed primarily on the application of a Consumer Data Right (CDR) to the banking sector through “Open Banking”, the Review makes recommendations about the legislative architecture that will govern how other sectors are designated in future and the way the CDR will apply to those sectors. The Insurance Council’s submission focuses on the broader implications of the Review recommendations on the general insurance sector, should it become a designated sector in future.

The Insurance Council understands that the Review was tasked with making recommendations about the regulatory framework under which an Open Banking regime would operate. However, given the CDR is intended to apply to other sectors, we are concerned that the legislative framework being considered is focussed on the requirements of Open Banking. While the Review, in making its recommendations, has kept interoperability between sectors in mind, we are concerned that the substantial differences between sectors and how a CDR would apply have not been fully considered.

For example, the Review considers in-depth the types of data that should be shared and considers that transaction data, data that is generated as a result of transactions made on a customer’s account or service, should be an important component of Open Banking.

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent approximately 95 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. September 2017 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$44.9 billion per annum and has total assets of \$118.6 billion. The industry employs approximately 60,000 people and on average pays out about \$132 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

However, unlike products that are “consumed”, insurance transaction data is unlikely to assist consumers to make more informed decisions. A consumer making a claim against a policy might be considered to be the only point at which the product is consumed, and most consumers purchase insurance without an insured event occurring and triggering this point of consumption. This can be compared to a banking transaction product, for example, where bank records on everyday transactions and larger purchases, and the fees incurred for those activities, might provide useful information to consumers in considering alternative products.

From a general insurance point of view, consumer knowledge about their own risks, and the different options available in the market for covering that risk, represents the most valuable information to a consumer. While the Insurance Council is supportive of the objectives of a CDR, how it could apply to the general insurance sector and achieve the stated aims of improved consumer choice and convenience requires careful consideration.

The Review recommends that open banking, and the application of the CDR in other designated sectors, should be legislated through amendments to the *Competition and Consumer Act (2010)*. The regulatory framework will be supported by a multiple regulator model led by the Australian Competition and Consumer Commission (ACCC), with the Office of the Australian Information Commissioner (OAIC) remaining responsible for privacy protections, and other sector specific regulators consulted as required; including the Australian Securities and Investments Commission (ASIC) and Australian Prudential Regulation Authority (APRA). The ACCC, in consultation with the OAIC, and other relevant regulators, will determine Rules specifying what the CDR needs to achieve in designated sectors.

The Review recommends that the legislation should enable the designation of a sector by Ministerial direction. The Insurance Council suggests that the legislation should incorporate guiding criteria under which an assessment to designate a sector is made, and we suggest as a starting point the nine criteria recommended by the Productivity Commission in considering whether data should be shared²:

- i) It must deliver net benefits to the community.
- ii) It must increase the availability of data.
- iii) It must increase the usefulness of data.
- iv) It must engender community trust and confidence in how data is used.
- v) It must enable individuals to understand, access, use and benefit from their data.
- vi) It must preserve commercial incentives to collect, maintain and add value to data.
- vii) It must promote transparency and accountability of governments’.
- viii) It must address potential risks to privacy.
- ix) It must establish adaptability in policy settings/processes to account for different data types, different data users and changes that innovation will bring.

While the legislation will set out the broad objectives of the CDR, it is our understanding that the Rules will contain the detail around the data sharing entities captured and the types of data to be shared. The Insurance Council queries the Review’s recommendation that the Rules should be written with regard to consistency and interoperability between sectors. As outlined in this submission, there are key differences between sectors in how the aims of a

² Productivity Commission (2017), Data Availability and Use Inquiry, Final Report.

CDR could be achieved and we do not consider it is necessary for the Rules to be consistent across sectors. The Insurance Council supports the recommendation of the Productivity Commission that data release frameworks should be sector specific and industry led.

The Review recommends that a Data Standards Body should be created that determines technical Standards which specify how participants will connect and how they will meet the Rules. From a general insurance perspective, we consider that the development of such standards is critical and should precede other work in developing a framework for the CDR. In order to create a sustainable architecture that allows the economy to maximise the benefits of big data and digitisation, a sequenced framework is required to enable organisations to effectively configure their technological platforms and systems.

If you have any questions or comments in relation to our submission, please contact John Anning, General Manager Policy, Regulation Directorate, on (02) 9253 5121 or janning@insurancecouncil.com.au.

Yours sincerely



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