



6 September 2018

Daniel McAuliffe
Structural Reform Group
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Daniel,

Consumer Data Right (CDR)

Australian consumers believe that they should be able to decide who receives information generated about their vehicle.

Automotive repair and service in Australia is a \$16 billion industry affecting every Australian household. Our mission is to protect competition by supporting the rights of consumers to own and direct their vehicle diagnostic data.

The Australian Automotive Aftermarket Association (AAAA) is the national industry association representing over 2,000 companies nationally that are engaged in the manufacture, distribution and fitment of automotive parts.

The Australian Automotive Aftermarket Association supports the core principles of the proposed Consumer Data Right Law and we agree that CDR is a necessary instrument to support consumer choice and competition. Without a dedicated CDR instrument, elements of anti-competitive behaviour will progressively erode the key elements of consumer choice that fuel competition in our economy. Higher prices, lower quality services and household expenditure pressures affect our daily lives and whilst CDR is labelled as a 'legislative instrument', it is much more than that. The proposed CDR provides an opportunity to ensure our legislative competition framework is contemporary and is ready to support consumer choice now, and into the future.

We are delighted to read *the CDR is designed to give customers more control over their information, leading to more choice in where they take their business, or more convenience in managing their money and services*. This is a principle we warmly welcome and we can see an immediate and clear applicability to the future of vehicle servicing revolutionised by the rapid introduction of telematics. Without the CDR, consumers will have significantly reduced choice in where and when the vehicle is serviced and by whom.

Indeed the Australian Competition and Consumer Commission (ACCC) also noted the applicability of CDR to telematics and future choice of automotive service and repair.¹

¹ Australian Competition and Consumer Commission, New Car Retailing Industry, Market Study – December 2017.

Findings on telematics

- The impact of telematics on competition and consumers is likely to become more acute as telematics technology becomes more prevalent. The ACCC will continue to monitor emerging issues in this area.
- The voluntary Heads of Agreement and codes of practice governing information-sharing in relation to technical information provides a process, as yet unused, for the signatories to discuss issues associated with access and ownership of data generated by telematics technology.
- The PC's final report on Data Availability and Use recommended that consumers gain certain rights to access and use digital data. On 26 November 2017, the Australian Government announced a policy to introduce a Consumer Data Right, sector-by-sector, with the stated aim of ensuring that customers own their own data. If the Australian Government's Consumer Data Right policy was applied to the new car retailing industry, it could give consumers the right to access their telematics data, and the right to direct the data custodian, which would likely include manufacturers and/or dealers, to copy that data to nominated independent repairers.

Recommendation on telematics

Recommendation 7.1

The ACCC supports the Australian Government's intention to legislate a Consumer Data Right sector-by-sector. If a Consumer Data Right was introduced into the new car retailing industry, it could address some of the concerns that were raised about the impacts of telematics technology on new car purchasers. For example, a Consumer Data Right could give consumers the right to access digitally held data about themselves, including the right to direct data custodians to copy that data to a nominated third party.

The comparison of the key features of the new law and the current legal framework provides a compelling argument for the introduction of CDR legislation. We support the framework and design of the law, which enables a sector-by-sector approach.

Telematics is already present in most new vehicles. The car you drive in the next decade will self-diagnose and communicate with the vehicle manufacturer, without your knowledge or permission. The vehicle diagnostic and driving data and subsequent diagnostic detail will inform the manufacturer when the vehicle is in need of a new component or a routine maintenance check. Good consumer and road safety outcomes can certainly be harvested from telematics. However, without the introduction of CDR significant consumer detriment will be also be a likely outcome.

In the current environment, vehicle data does not currently belong to the consumer despite the data being generated by consumers' driving pattern and generated by a vehicle the consumer owns. The vehicle diagnostic telematics is built into the vehicle to notify the manufacturer's authorised dealer providing the potential for commercial gain through the supply of a replacement part or a routine service. This may be the manufacturer's intent to maximise commercial return on the sale of the vehicle, but the consumer may have other preferences. The consumer may wish to have the vehicle serviced by a service provider of their choice. Without CDR, this will soon be too difficult to navigate. If the consumer cannot request their information be provided to a trusted automotive repairer, they lose choice and convenience, and the consequent lack of competition produces significant consumer detriment.

The potential for the full implementation of telematics is a global conversation. Congressional hearings in the United States are considering legislative instruments requiring vehicle manufacturers

to ensure a vehicle transmits consumer data to cloud-based storage. This cloud-based data empowers consumers to use their data to research more competitive deals within the automotive repair sector. The US is also concerned about consumer convenience: Rural and regional consumers can often be over 100 kilometres away from a manufacturer's authorised dealer, and a lack of choice will result in considerable consumer detriment if the consumer is unable to nominate the recipient of their data. The consideration of a legislative framework to protect consumer choice is a high priority as it is estimated by 2020, 90% of vehicles sold in the US will have embedded telematics generating US\$14.5 billion in automotive data assets revenue.²

In addition to intense scrutiny by the US Congress, the International Federation of Automotive Aftermarket Distributors, is working with the European Commission to swiftly implement an 'interoperable in-vehicle telematics platform'. This EU activity follows a report which examined a number of different solutions to provide direct remote access to a vehicle, its data and resources which are needed for competitive maintenance and repair services for motorists. There is a similar discussion in Canada and the UK. The benefit of this global conversation is that it presents an opportunity to leverage intelligence about cloud-based storage and the data format: Both the European and American industry representative bodies have developed frameworks for interoperable in-vehicle telematics platforms.³

Regarding the current consultation process, we wish to make the following key points:

1. Many of the case studies within the report are concerned with data access to support the consumer's ability to change providers. The case studies describe a consumer's requirement for detailed data on their consumption patterns to be accessed by themselves or by their nominated or accredited provider.
 - The nature of telematics is a somewhat different experience. A CDR for vehicle repair and service requires data that is generated every time the vehicle is in use can be collected and transmitted to the consumer's service provider of choice. The consumers' data continues to be generated on a regular basis and the consumer choice is less about a 'one-off switching of providers' and more about ongoing and everyday support of the consumers' choice. However, despite our interest in the applicability of CDR to telematics, we cannot see any elements in the proposed framework that would prevent its applicability for our sector. However, we would recommend the drafting ensure framework appropriate for our sector's requirement for ongoing and continuous access to vehicle diagnostic data.
 - A good example of this nuance is the comment on page 11 of the Exposure Draft that defines the data holder. It notes that, generally speaking, the data holder will be the entity that generates or collects the initial transaction records or data. For our sector, **it is the vehicle that generates the data**. We do not recommend that the vehicle's data is transmitted to the manufacturer. The global industry preference is an open system in which the data is transmitted to a cloud-based system rather than transmitted back to the manufacturer's servers to ensure the independent repair industry is not seeking ongoing access to the car makers' data system. We do however, note that there is continual reference to the requirement for adaptability

² <https://www.autocare.org/what-we-do/technology/telematics/?gmssopc=1>

³ http://garagewire.co.uk/news/associations/iaaf/pressure-mounts-in-favour-of-interoperable-vehicle-telematics-platform-for-fair-market/?utm_medium=email&utm_campaign=News&utm_content=News+CID_7ad19126d2325287916103ca0f81247f&utm_source=Email%20marketing%20software&utm_term=Pressure%20mounts%20in%20favour%20of%20interoperable%20vehicle%20telematics%20platform%20for%20fair%20market

for each sector and we support the design elements that provide rule-making powers to the ACCC.

2. It is our view the automotive service and repair industry should be a high priority. The cost of car ownership has a significant effect on our economy and quality of life and we would anticipate the CDR and vehicle diagnostic telematics would be an early consideration as a priority sector.
 - We have 18 million vehicles on our roads.
 - Household expenditure averages \$1367 per year on car parts and servicing.⁴
3. We would recommend that Data61 is empowered to consider the US data format and this work commence as a priority to prepare our market for the anticipated telematics penetration that will occur by the year 2020.

We support the proposed CDR law and we look forward to an ongoing discussion about automotive service and repair consumer data rights.

Yours Sincerely,



Stuart Charity
Executive Director
Australian Automotive Aftermarket Association

⁴https://www.accc.gov.au/system/files/New%20car%20retailing%20industry%20final%20report_0.pdf