



AUSTRALIAN INSTITUTE of  
SUPERANNUATION TRUSTEES

21 May 2020

Secretariat  
Inquiry into Future Directions for the Consumer Data Right  
The Treasury  
Langton Crescent  
Parkes ACT 2600

Email: [data@treasury.gov.au](mailto:data@treasury.gov.au)

Dear Sir/Madam,

**Re: Inquiry into Future Directions for the Consumer Data Right**

**In brief:**

AIST supports the use of CDR to allow members to share relevant information with their super funds. This will allow super funds to tailor their services, increase member engagement and ultimately improve retirement outcomes for members. Implementation of CDR in superannuation needs to include the ability for superannuation funds to be eligible to receive information under the Open Banking Initiative.

**The Australian Institute of Superannuation Trustees (AIST)** is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$1.5 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

*AIST advocates for financial wellbeing in retirement for all Australians regardless of their gender, culture, education or socio-economic background. Through leadership and excellence, AIST supports profit-to-member funds to achieve member-first outcomes and fairness across the retirement system.*

The Australian Institute of Superannuation Trustees (AIST) welcomes the opportunity to make a submission to the Inquiry into Future Directions for the Consumer Data Right.

AIST are supportive of the implementation of CDR in superannuation, however it is important that this also extends to the ability for superannuation funds to be eligible to receive (following member consent) information held by banks under the Open Banking Initiative – as recommended by the Productivity Commission into Superannuation Efficiency and

Competitiveness<sup>1</sup>. We also advocate that superannuation is unique, complex, compulsory and delivers important social policy, therefore any implementation of CDR in superannuation needs to bear in mind the objective of superannuation which is to provide a dignified and financially secure retirement income.

Better access to information would inevitably better enable superannuation funds to harness data that would allow them to further tailor and design their services for the benefit of members.

We make the following comments in relation to the issues paper.

### Switching

*The Inquiry invites submissions on how the Consumer Data Right could be used to overcome behavioural and regulatory barriers to safe, convenient and efficient switching between products and providers, whether those barriers are sector-specific or common across industries.*

#### **Member protection is needed**

A key principle of the superannuation system is member protection. This principle provides protections for those not actively involved in superannuation and retirement planning, while providing options for those who are.

The higher standards applicable to MySuper products and the operation of the default fund selection system are fundamental to safeguarding member protections. Whilst mass market advice tools (supported by CDR) making it easier to switch superannuation funds may help a small portion of members, there is no evidence this alone is sufficient to protect members from predatory behavior. This needs to be underpinned by a default system that screens underperforming funds, high levels of regulatory protection and effective regulators.

As stated in the Royal Commission into Banking, Superannuation and Financial Services Industry, superannuation is not a product to be sold.

*'Superannuation is not a product to be sold. It is a compulsory product. All employees must have a superannuation account. Too many employees have more than one account. Steps taken to induce persons to hold multiple accounts should be actively discouraged. And persons having existing arrangements should not be induced to change those arrangements unless there is good reason to make the change.'*<sup>2</sup>

---

<sup>1</sup> Productivity Commission Inquiry Report, Superannuation: Assessing Efficiency and Competitiveness (2018). Available from: <https://tinyurl.com/y9vlyxoll>

<sup>2</sup> Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Final Report, Volume 1 (2019), 227. Available from: <https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf>

### Low levels of member engagement

As confirmed by the recent Productivity Commission Inquiry report<sup>3</sup>, a significant number of members are not engaged with the superannuation system and rely on their fund to manage their super for them. Trustees are required to act in the members best interests and we also have in place a strong default system that is designed to protect members that are disengaged.

AIST therefore support measures such as CDR which will better allow members to share relevant information with their super funds. This in turn will allow funds to tailor their services, increase member engagement and also support members to achieve a better understanding of their financial position before and in retirement. As an example, research has shown that whilst Australian workers rely on information from their superannuation funds to ascertain if they are saving enough for retirement and retirement income projections can have a positive impact on superannuation contributions, investment choices and member engagement<sup>4</sup>.

It is however important to note that not all member engagement is equal, for example member engagement to encourage switching super funds can in some cases leave members worse off and appropriate consumer protections need to be in place. Superannuation is a long-term investment and regular switching of funds may also have a negative impact.

### Choice may not always deliver better long-term outcomes

The issues paper states that *'many Australian consumers and businesses could be getting a better deal on banking and other regulated services. Many customers tend to remain with the same banking services or electricity provider for extended periods, even in the presence of more competitive offerings elsewhere.'*

As highlighted by the Productivity Commission Inquiry into Superannuation: *'Across a range of indicators, the evidence suggests that competition in the choice segment has not always delivered better long-term outcomes for members in terms of performance, products and services.'* This inquiry found that 36% of the choice products sampled underperformed their benchmark and noted that this is likely a conservative estimate of underperformance in the whole choice segment. In addition, the inquiry highlighted identified a tail of high-fee products which were almost all choice products offered by retail funds. In contrast it found that the default segment outperforms the system on average with 86% of assets performing above the benchmark.

Given these findings and AIST research<sup>5</sup> that highlights that a large cohort of Australians are still misinformed about how their super fund is performing and what type of fund they are in, we

---

<sup>3</sup> Productivity Commission Inquiry Report, Superannuation: Assessing Efficiency and Competitiveness (2018). Available from: <https://tinyurl.com/y9yloxll>

<sup>4</sup> CEPAR, The impact of projections on superannuation contributions, investment choices and engagement (2019). Available from: <http://cepar.edu.au/publications/reports-government-submissions/impact-projections-superannuation-contributions-investment-choices-and-engagement>

<sup>5</sup> Essential Research, Understanding the decision-making process of retail fund members (2019). Available from: <https://tinyurl.com/s85wcccl>

have advocated for the Government and industry regulators to develop an easy-to-use online super comparator tool to help consumers make more informed decisions about their super. Such a tool should be made available prior to the commencement of CDR in superannuation.

### **Complexity and disclosure**

It is widely recognised that Australia's retirement income system is extremely complex and as a result many individuals do not feel confident making decisions about it. This complexity leaves members at risk of poor retirement outcomes due to switching products as a result of conflicted sales practices and advice.

As highlighted in a recent ASIC report<sup>6</sup>, disclosure cannot solve complexity that is within the superannuation system. The report found that *'Simplifying disclosure, for example, does not reduce the underlying complexity in financial products and services. Nor does it ease the contextual and emotional dimensions of financial decision making, both at the point of purchase and over time'. Research into consumers capabilities in regards to complex products, indicates that once we have to take into account more than two or three different factors, our ability to identify good and bad deals becomes strikingly inaccurate*<sup>7</sup>.

### **Consumer protection**

*The Inquiry invites submissions from interested parties on how to ensure that, as the Consumer Data Right develops, it does so in a manner that is ethical and fair, as well as inclusive of the needs and choices of all consumers. This includes ways to encourage socially beneficial uses for the Consumer Data Right.*

### **General Data Protection Regulation (GDPR) as a minimum**

AIST believes that levels of protection equal to that provided by the EU in the General Data Protection Regulation should be applied. This standard requires all businesses to provide a set of enforceable data rights to customers including the right to access their information and the right to be forgotten when they have ceased to be a customer.

---

<sup>6</sup> ASIC, REP 632 Disclosure: Why it shouldn't be the default (2019). Available from: <https://download.asic.gov.au/media/5303322/rep632-published-14-october-2019.pdf>

<sup>7</sup> Economic & Social Research Institute, An investigation of consumers' capabilities with complex products (2016). Available from: <https://www.esri.ie/publications/price-lab-an-investigation-of-consumers-capabilities-with-complex-products>

### **Informed consent & Freedom of Reach**

The proposed uses of member data should be articulated in simple language and made readily and easily available. Current disclosures in other industries, tend to be 'legalese' and compliance focused, which means most people never read it.

There should be a regulatory requirement detailing requirements for website disclosure so that access to CDR is not hidden away in an unlikely or hard to reach part of a website. Access to CDR should be freely available, and not incur a charge. Members should also have options regarding how far their information can be shared, for example giving them the option of sharing it with external suppliers to offer them better products and services.

In addition, while organisations may want to use customer data to improve the offerings to members, there is growing marketing in the on-selling of customer data to other organisations. AIST supports the implementation of clear limitation and disclosure around such secondary uses of data.

### **Trust and an even playing field**

For CDR to effectively work, people need to be able to trust both the data holder, the organisation receiving the data and also that the data holder will transfer the right data within a reasonable timeframe. Given superannuation funds are both highly regulated and are already trusted by members<sup>8</sup>, we advocate that they are well placed to receive this data.

We highlight the Productivity Commission into Superannuation recommendation which states that *'The Australian Government should automatically accredit superannuation funds to be eligible to receive (following member consent) information held by banks under the Open Banking Initiative'*.

We believe that it is imperative that any further rollout of CDR does not inadvertently create an uneven playing field, creating an imbalance of information.

### **Vulnerable members**

It is important to acknowledge that access to technology and the ability to use and understand it, differs across the Australian community. In addition, financial literacy also greatly differs across the Australian community.

An understanding of technology or financial literacy should not be required for members to maximise their retirement incomes. Participating in the retirement income system is compulsory, and it delivers important social policy. Systemic level interventions aimed at increased switching,

---

<sup>8</sup> Deloitte, Open banking: switch or stick? Insights into customer switching behavior and trust (2019). Available from: <https://tinyurl.com/wetsc2y>

risk benefiting those with access to the technology and with the financial literacy to adequately compare superannuation products at the expense of those that cannot.

Learnings can also be incorporated from the energy sector. Research has found that interventions aimed at facilitating greater consumer engagement (and switching) may improve outcomes for customers that switch into cheaper offers however in doing so also risks raising overall prices<sup>9</sup>.

### Adequate time and consultation needed

Both adequate sector-wide consultation and a considered approach to transition is necessary to ensure that the rollout of CDR in superannuation is effective and does not unnecessarily create an administrative burden for superannuation funds that are going through a period of significant regulatory change.

We also note that APRA is undertaking a multi-year project to upgrade the breadth, depth and quality of its superannuation data collection with an increasing focus on improving member outcomes. As advocated for in submissions to APRA we believe that there is a need for a whole of Government approach in relation to the collection of data.

Given CDR is being implemented in the banking sector from July 2020 we suggest that sufficient time is given prior to implementation of CDR in superannuation to be able to assess any learnings that may be applicable.

For further information regarding our submission, please contact Zach Tung, Policy and Regulatory Analyst on 03 8677 3851 or at [ztung@aist.asn.au](mailto:ztung@aist.asn.au).

Yours sincerely,



Eva Scheerlinck  
**Chief Executive Officer**

*The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.*

*As the principal advocate and peak representative body for the \$1.5 trillion profit-to-members superannuation sector, AIST advocates for financial wellbeing in retirement for all Australians regardless of their gender, culture, education or socio-economic background. Through leadership and excellence, AIST*

---

<sup>9</sup> Ben-David, Dr Ron, The unfortunate paradox of retail energy prices (2018). Available from: <https://www.esc.vic.gov.au/sites/default/files/documents/The-unfortunate-paradox-of-retail-energy-prices-20180625.pdf>

*supports profit-to-member funds to achieve member-first outcomes and fairness across the retirement system.*

*AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.*