21 May 2020

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

By email: data@treasury.gov.au

Dear Secretariat

Submission in Response to *Inquiry into Future Directions for the Consumer Data Right: Issues Paper*

Tyro Payments Limited (**Tyro**) appreciates the opportunity to provide a submission in response to the Treasury's *Inquiry into Future Directions for the Consumer Data Right: Issues Paper* as released on 6 March 2020.

To place our submission in context, some understanding of our history, mission and position in the market is required. Tyro was launched in 2003, responding to the RBA's call for greater competition in the payments industry, with an ambition to be the most efficient acquirer of electronic payments in Australia. In pursuit of this ambition Tyro became the first technology company to receive (in 2005) a special credit card institution licence and that licence (in 2015) was replaced by the award of an Authorised Deposit-taking Institution licence – making Tyro the first new domestic banking licensee in over a decade.

Since then, Tyro has launched a suite of business banking products to complement our core payments offering. This includes a fee-free, interest-bearing transaction account, an unsecured business loan in the form of a merchant cash advance and, more recently, a term deposit account. While still in a build-out phase, the Tyro Bank Account and the Tyro Business Loan have exhibited strong growth since their introduction in October 2015 and July 2016, respectively. In the six months to 31 December 2019, we processed $11.1 billion in payment transactions on behalf of over 32,400 merchants, and had 3,100 active transaction accounts. We have a history of innovation and creating purpose-build solutions for our merchants. The majority of our merchant acquiring systems are built and maintained in-house, giving us an end-to-end solution.

As an ADI, we fall under the purview of the Consumer Data Right legislation, as do all of our business banking products. Furthermore, given our position as Australia's fifth largest merchant acquiring bank behind the major four banks, we have a strong interest in future payments experiences and businesses' ability to switch providers when there is a more favourable service available to them.

While the Issues Paper raises a number of broad topics for consideration, we have limited our submission to those areas where we feel most qualified to comment and which are of importance in achieving the stated goals of the review, namely boosting innovation and competition, and supporting the development of a safe and efficient digital economy in Australia.

Switching

With recent licensing of a number of new ADIs, alongside the incumbent major banks and regional banks, Australian consumers and businesses have a large and growing variety of options with regards to selecting their banking service provider.

The Issues Paper, however, rightly acknowledges that many Australian consumers and businesses tend to remain with the same banking provider, despite better deals and more competitive offerings being available to them elsewhere. Despite lower customer satisfaction relative to many of the regional banks,[1] the 'Big 4' still account for approximately 75% of all household and business deposits.[2] Indeed, the Productivity Commission recently stated that many incumbent banks rely on this customer inertia to generate higher margins once the introductory rates and temporary benefits used to attract new customers have expired.[3] Whilst many banking customers may be content with their existing provider, Deloitte estimates that one in four consumers that have considered changing their banking service provider have elected not to do so due to the perceived hassle associated with switching accounts.[4]

As noted in Tyro's recent RBA Retail Payments Regulation submission,[5] we welcome the introduction of the Consumer Data Right as a means of increasing informational transparency to customers around the banking products and services available to them. However, whilst greater transparency is beneficial, customers are still required to engage with their banking service provider directly if they wish to switch instructions on the account (for example, direct debits) to a new banking service provider, which causes friction for the customer and discourages switching.

Tyro strongly advocates for any initiative that would reduce this competition impediment. This could be in the form of a centralised switching service that puts the burden of switching on the banking providers themselves rather than the customers (for example, the Current Account Switching Service in the UK), or via the introduction of 'write' access APIs that will enable accredited CDR parties to complete the switching process on behalf of their customers. On the surface, Tyro considers the latter option more appealing given that it may encourage further innovation from new entrants who wish to combine a switching service alongside other products and services enabled by the CDR APIs.

As noted by the Financial Conduct Authority,[6] an effective switching service relies not only on the efficacy of the switching mechanism itself, but also on the consumer awareness and confidence in the service. Evidence from the UK suggests that a targeted awareness campaign aimed at small and medium businesses, alongside other initiatives

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[1] Roy Morgan, 'Customer Satisfaction report on Consumer Banking in Australia' and 'Financial Institutions Advocacy Report', August 2019.
[2] APRA, 'Monthly Authorised deposit-taking institution Statistics', as at 31 December 2019.
[3] Productivity Commission, 'Competition in the Australian Financial System Inquiry Report', June 2018.
[4] Deloitte, 'Choice in banking – Australian Banking Association', October 2019.
[5] Tyro, 'Submission in Response to Review of Retail Payments Regulation: Issues Paper', February 2020.
[6] Financial Conduct Authority, 'Making current account switching easier', March 2015.

to improve the flow of information to businesses, doubled the number business accounts that were switched compared to the same period a year earlier.[7] As such, we would encourage consideration be given to how to best ensure Australian consumers and businesses are made aware of the efficiency and safety of any proposed switching mechanism and, moreover, are not deliberately misinformed.

Beyond the high level considerations above, we would encourage specific consideration also be given to the following items:

- **CDR authorisations:** The current scope of the CDR aims to bring a number of innovative products and services into the market, that could be authorised to access an existing customer account. We would encourage consideration to be given on how best to manage pre-existing CDR authorisations on customer bank accounts during the switching process. For example, a customer that has provided authorisations on their account to share their data with accredited third parties may find the prospect of re-establishing these consents and authorisations on a new account to be sufficiently arduous that they elect not to switch. As such, if this is not managed effectively, Open Banking in itself may act as an additional barrier to switching inadvertently. A mechanism to establish equivalent consents at the new financial institution may work to reduce this potential friction point. At a minimum, the consent for an account migration should support the creation and deleting of direct debits, scheduled payments and balance transfers. Due to the nature of these three required items, a frictionless and effective account switching process is only likely possible with write-capable data standards APIs.
- **Liability and remediation:** Consideration should be given to the liability framework and remedial options available in the event of a customer incurring costs, such as interest charges on late payments, due to a failure in the switching process. A centralised arbitration agent may be required.
- **'Partial' switching**: Given the new entrants in the Australian banking sector, it may become more common for consumers and businesses to hold multiple bank accounts and products across multiple providers. As such, Tyro would encourage consideration to be given to developing a partial switching service (for example, switching a single direct debit arrangement to a different account).

Payment Initiation

Beyond the application of write access APIs to enable switching, Tyro also strongly supports the expansion of the Consumer Data Right to include payment initiation.

There are many examples of use cases and benefits of payment initiation services. Benefits include the potential for lower merchant fees enabled by interbank transfers that could bypass scheme and interchange fees incurred on most card transactions (see below for considerations relating to the value-added services that card transactions offer in exchange for fees). Another notable benefit would be the potential for faster (including 'instant') settlement if payment initiation is conducted via 'real-time' interbank rails, such as the New Payments Platform. This would be of particular interest to SME merchants. A recent Deloitte study of UK businesses found that 63% of businesses maintained a cash contingency due to delayed settlement, and that 50% of businesses would be

[7] Pay.UK, 'Current Account Switch Service (CASS) Dashboard – Issue 23', July 2019.

willing to pay a fee to receive payments immediately.[8] Indeed, there are a number of companies globally that charge fees for an instant settlement service. The reduction of this liquidity risk would also benefit participants in the card payments value chain, such as merchant acquirers like Tyro. There may also be further benefits of payment initiation services when coupled with existing read access functionality. For example, an accredited data recipient that can compare savings accounts for a customer and also automatically deposit an agreed amount from the customer's authorised account into the best available savings account would offer the customer greater functionality than a standalone comparison service.

The uptake of write access APIs in the European context suggests there is a demand for this type of service. The European Revised Payment Services Directive (PSD2) ensured that read and write access APIs were rolled out concurrently. And of the 143 firms registered to provide Open Banking services, 45 of these have registered to provide both account information services (i.e. 'read' access) and payment initiation services (i.e. 'write' access).[9] While account to account payment volumes are not yet significant in Europe, reports suggest momentum is building in countries such as Denmark, Italy and Sweden.[10]

Whilst the potential use cases and benefits of third party payment initiation are well-documented, there are also a number of considerations that need to be taken into account.

At a broader level, Tyro agrees with the original assessment of the Treasury's *Review into Open Banking in Australia* that the development of the write access CDR should not be undertaken until the existing read access framework is 'bedded in' and has been fully evaluated, especially given the complexity and resultant delays that have arisen over the last twelve months.[11]

More specifically, we would encourage Treasury to give consideration to, and to provide further clarity on, the following topics with regards to the development of the write access regime:

- **Consent standardisation:** The current CDR consumer experience guidelines and standards cover the necessary interactions between consumers, data holders and accredited data recipients, and outline the necessary requirements to deliver a consumer-focussed outcome. However, many of the implementation decisions are left to the data holders and accredited data recipients. As a result, consumers may experience very different consent experiences for each CDR-enabled product that they choose to use and need to interact with different providers in different ways to understand the status of their consents. Tyro would encourage that consideration be given to the development of standardised interfaces and language around consent to foster better tooling for consumer consent management.

- **Interoperability with the NPP**: The New Payments Platform would likely play a central role in CDR write access functionality in relation to the payment initiation

[8] Deloitte, 'Economic impact of real-time payments', July 2019.
[9] Financial Conduct Authority, Register of 'Account Information & Payment Iniation Service Providers', accessed 17 April 2020.
[10] McKinsey & Company, 'Global Payments Report 2019: Amid sustained growth, accelerating challenges demand bold actions", September 2019.
[11] Treasury, 'Review into Open Banking in Australia', December 2017.

funds transfer 'rails'. Furthermore, the current NPP roadmap includes the development of 'Mandated Payment Services', a payment initiation service that will be a mandatory feature for all direct NPP participants.[12] Noting this, there are a number of areas regarding the inter-relation of the NPP (and the Fast Settlement Service) and Treasury's CDR that will require greater clarity.[13] These include:

- Financial institutions in scope: At present, it is not mandatory for Australian financial institutions to connect to the NPP, either directly or indirectly. However, the scope of the CDR currently includes all ADIs. If the NPP is to be used to facilitate payment initiation for the CDR, it is unclear what alternative arrangements would be available to those financial institutions that are not connected to the NPP, but are still mandated to initiate interbank account-to-account payments under the scope of the CDR. Under other current RBA RITS clearing and settlement arrangements, the funds would not be received in real-time.

- Consent management: The NPP's Mandated Payment Service is designed to include the development of a consent management framework ('mandates') to enable account holders to allow payments to be initiated on their behalf. The NPPA has suggested that this consent framework will be developed to align, where possible, with the data sharing consent framework developed under the initial implementation of the CDR.[14] Further clarity around how these frameworks would interrelate is required, particularly regarding mandate design and management (i.e. centralisation versus decentralisation of 'mandates' and consents). This is further complicated given the potential existence of write access APIs that would sit outside the remit of the NPP, such as account switching services.
  In addition to the consumer outcomes mentioned above (see 'Consent standardisation'), consent standardisation may also allow for better evaluation of whether existing industry tooling (for example, NPP 'mandates') would be suitable for reuse. A lack of standardisation may mask underlying constraints of existing systems. However, prior to any such decision being taken, Tyro would strongly advocate for all participants (both data holders and accredited data recipients) to be given an adequate opportunity to participate in shaping the consent ecosystem.

- **Authentication and authorisation at the point of sale:** The existing 'four-party model' for card payments has clear specifications for how card holders and transactions are authenticated and authorised at the point of sale, both for card-present and card-not-present transactions. Tyro would appreciate clarity around how payments initiated via the CDR would be authenticated at the point of sale. If the multi-factor authentication requirement under the existing CDR regime is to

[12] NPPA, 'New Payments Platform Roadmap 2019', October 2019.
[13] It was highlighted in Treasury's Review into Open Banking in Australia that the ongoing development of the NPP was one of the reasons for not including payment initiation in the original scope of the CDR. Treasury, 'Review into Open Banking in Australia', December 2017.
[14] NPPA press release: "Inquiry into Future Directions for the Consumer Data Right", January 2020.

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be extended, clarity should provided around which payments would be exempt from this, and what the alternative mechanisms would look like.

- **Chargeback management and liability frameworks:** Similar to the previous consideration, the 'four-party model' for card payments clearly defines the liability framework in the event of a chargeback, as well as the channels available to participants to dispute transactions. Evidence from the implementation of PSD2 in Europe suggests that there remains a lack of clarity around liability and what customers should do in the event of a disputed transaction.[15] Tyro found the liability scenario table included in the Treasury's *Review Into Open Banking in Australia* to be particularly useful and would welcome a similar approach in this instance. Similarly, if funds transfer for payment initiation is facilitated via the NPP and the RBA's Fast Settlement Service, the instant and irrevocable nature of these settlements will represent additional challenges regarding disputes, especially if payment initiation started to represent a significant proportion of retail payments. Further consideration around additional value-added services provided in the card payments model (e.g. loyalty, fraud detection and insurances) and associated fee structures will likely be required if payment initiation looks to become a viable alternative.

- **Performance and availability reporting:** Tyro strongly advocates for a clear reporting framework to ensure that bank APIs are held to same level of accountability around reporting as the existing card payment participants, and that any write access APIs exposed by banks meet the same service standards as the financial institution's own digital channels.

Tyro would welcome the opportunity to participate in further consultations if considered of assistance by Treasury.

Yours sincerely

Robbie Cooke
CEO | Managing Director

15 Ashurst, 'Open Banking, Open Liability: accountability issues for open banking APIs', February 2018.