

Consumer Data Right Division
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Competition and Consumer (Consumer Data Right) Amendment (2021 Measures No.1) Rules 2021 (Version 3)

About Loan Market Group

The Loan Market Group welcomes the opportunity to respond and contribute to this consultation.

Loan Market is an aggregator and part of the 119-year-old White Family Group which includes Australasia's largest real estate company, Ray White.

In March 2021, Loan Market Group purchased the PLAN, Choice and FAST aggregation businesses and the Australian Credit Licensee, BLSSA Pty Ltd. Combined, the Loan Market Group (which includes Loan Market Pty Ltd and LM Broker Services Pty Ltd as credit licensees and Wealth Market Pty Ltd holding a financial services licence) are Australia's largest mortgage aggregator, representing approximately 30% of the broker market with approximately 5000 brokers using Group services. Combined the group supports consumers with approximately one in ten of all mortgage applications in Australia. The overall value of new lending facilitated by brokers this quarter reached just over \$62.2 billion¹.

Approximately half of those brokers are credit representatives of the Group. As aggregators, the Group also has contractual obligations to manage its agreement holders and as such will assist and monitor the other 50% of broker businesses that hold their own credit licences.

Mortgage broking is a mature industry with key interdependencies involving lenders, brokers, aggregators, lodgement service businesses and other support services. Our view is that for CDR to achieve consumer outcomes of greater access and control over their data that the scheme must recognise these parties. While some of these parties may consider becoming accredited or sponsorship arrangements, there is a cost to the former and latter does not appear to facilitate data flow across these parties.

'Trusted Advisers' & the role of the broker, licensee and aggregator

We welcome the inclusion of a 'trusted adviser' as a participant in the CDR scheme, however, we consider that the structures of aggregator and licensee require further consideration in the scheme.

¹ <https://www.mfaa.com.au/news/qms-jan-mar-2021>

Brokers as trusted advisers

Brokers assist their customers through aggregator businesses such as the Loan Market Group. Aggregators contract with lenders and financial product providers. Aggregators will contract with brokers and advisers businesses and, so, act as intermediaries between the credit providers and the brokers. These brokers are third party independent brokers that deal directly with consumers and in some instances brokers will operate as direct franchisees. Brokers can be large organisations, but the majority are small businesses and can hold their own licence if they deal with consumers. The scope of broker activities also extend to facilitating small business, asset finance and commercial loans. Finally, brokers may also use outsource providers to manage applications in addition to the services aggregators provide.

Aggregators and licensees

The vast majority of brokers need to use the services of an aggregator to access credit providers. Aggregators provide a broad range of services to brokers that indirectly assist consumers, small and large businesses. In general these would include solutions for software and technology, training, compliance services, general business support and back office administration. More specifically, these include:

- Providing technical solutions for initiating consumer consent
- Providing (or partnering) in the technical solution for managing the authorisation and authentication processes on behalf of the broker
- Securing and exposing data on its operating platform so the broker can access this information in order to make client recommendations
- Reviewing data on compliance based activities that ensure the aggregator and broker complies with licencing and contractual obligations.
- Providing the technical solutions for sharing data with a lending partner or lodgement service² in order to lodge and complete loan applications
- Providing ongoing access to data in order to allow brokers to optimize the lending solutions for their clients over the long term.

Aggregators have *contractual* obligations imposed on them by credit providers to, for example, take reasonable steps to ensure that *all* their contracting brokers comply with laws *and* to undertake monitoring of its contracting brokers.

As mentioned above, Loan Market Group has five brands that undertake services of aggregation, 4 Australian Credit Licenses and 1 Financial Services Licence (unrelated to aggregation). The credit *licensee* obligations are, relevantly, to ensure that its representatives undertake responsible lending and act in the best interests of consumers. To do so, the licensee must have available evidence of, for example, verification of expenses.

Comment:

While we welcome the ability for a 'trusted adviser' to access CDR, in order for a broker to have access to this information, the aggregator (and the structures set out above) *must* be directly

² Nextgen.net and Simpology are the main providers of electronic lodgement and processing.

recognised. We have seen challenges with recent legislation³ that has failed to recognise the role of the aggregator, which in turn has negated the positive impact this may have had for consumers. In reflecting these structures, consumers can see the benefits of verified data flows to assist in, for example, the delays by banks in application approvals currently experienced by consumers.

As set out above, there are requirements on licensees for certain financial data to be sought from a customer to be verified and retained for audit purposes within systems provided by the aggregator and submitted to lenders. Aggregators are similarly required under their contractual arrangements with lenders.

We consider that the proposed rules do not make it clear that such diverse structures are able to access or use that information for the purposes of monitoring or do so at a cost that is comparable to other technology. Mortgage brokers may hold their own licence, but not necessarily have the resources to access the scheme. A licensee who contracts with an aggregator must also have access to the scheme in order for those trusted advisers to service all consumers.

Further, the use of CDR is likely to be needed through the life cycle of a broker/client relationship. Starting with initial review, moving into credit application and ongoing as part of a successful post settlement customer care program. We recognise also that brokers and broking business may access CDR through other authorised recipients. To restrict access (not available outside of the scheme) would not assist the consumer outcome of greater access and control.

We appreciate that one option is for the aggregator to seek accreditation or sponsorship, however, it is not clear whether the proposed 'trusted adviser' process would or can cover the structures outlined above. We consider that in order for a consumer to see the benefit of the regime, the *group involved in the application process* must have access. Importantly, any data should (with consent) be able to be passed on between licensees and aggregators that form a group under any arrangement proposed in the scheme. In addition to access, the aggregator group, the broker's licensees, lodgement services and lenders should be able to *use* and *hold* it (with consent of the consumer).

Doing so will allow brokers/advisers to complete the activity their clients require, simplify integration and processes, facilitate the update of the scheme, allow aggregation businesses and licensees to undertake their contractual and licence obligations and lenders can assess the application.

Finally, as set out above, there are a number of brokers that undertake commercial broking in addition to or solely for customers. The current regime should consider extending the scope of 'trusted adviser' beyond that of mortgage broker as defined.

³ In particular, reference checking where an aggregator who is not licensee will not be able to access the reference undertaken on a proposed credit representative of another licensee that contracts with the aggregator.

We would be pleased to discuss our submission further. In particular, how we could work with you on finding appropriate solutions to facilitate CDRs purpose.

Kind Regards,
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Loan Market Group