



Australian Banking Association

02 September 2021
Strategic Assessment Team
Consumer Data Right Division
The Treasury
By email: data@treasury.gov.au

Dear Jessica,

Consumer Data Right – Strategic Assessment

The Australian Banking Association (**ABA**) thanks the Treasury for the opportunity to provide input to the consultation on the Consumer Data Right Strategic Assessment (**Strategic Assessment**).

The ABA is committed to supporting the development of a safe and secure Consumer Data Right (**CDR**) that will enable consumers to unlock the value of their data to access products and services that meet their current and emerging needs.

Whilst further detail is provided in the annexure, the ABA makes the following recommendations in respect to the expansion of the CDR:

- Treasury to develop optionality for designating both datasets and sectors to maintain the growth momentum of the CDR. With three sectors at varying stages of designation, Treasury, and the Data Standards Body (**DSB**) now has sufficient expertise to ramp up the growth of the ecosystem with multiple concurrent designation of datasets and sectors.
- Digital Platforms, Digital Accounting Platforms, Non-bank lenders (particularly buy-now-pay-later) be scheduled for designation in 2023 to support the streamlining and efficiency of credit decisions as well as adherence to responsible lending obligations enabling consumers more choice and timely banking solutions.
- Reciprocity be formally introduced in 2022.

Further, the ABA makes four recommendations in respect to improvements which can be made to the operations of the ecosystem. Two core areas for improvement are: the distributed governance structure of the CDR; and the need to bolster the skill set of the governance of the CDR to include specialist software release and cybersecurity expertise. Collectively, these recommendations point to impediments to the success of the ecosystem.

Finally, we seek comment from Treasury in respect to the timing for the Post Implementation Review (**PIR**) of Open Banking read access per recommendation 6.6 of the Open Banking Report 2017. The ABA strongly supports the findings of the PIR be considered prior to commencing with Action Initiation.

Kind regards,

Emma Penzo
Policy Director

About the ABA

The Australian Banking Association advocates for a strong, competitive, and innovative banking industry that delivers excellent and equitable outcomes for customers.

We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.



Annexure

Designation approach

The ABA can see the utility of a dataset approach to designation for the CDR. For example, a dataset approach would be useful for designation when a business model cannot yet be classified as a 'sector' (such as buy-now-pay-later); where the business models of entities are dependent on the dataset of another sector (such as digital wallets); or where the data of interest is a product dataset (such as the product reference data for insurance products).

For mature sectors with complex and multiple consumer datasets and specific regulation, it may be more practical to take a sectoral designation approach. The requirement to build out these sectoral complexities into the CDR means that these prospective data holders will be required to construct compatible infrastructure and develop aligned policies and processes; for these sectors it is more efficient to do so for all consumer datasets under sectoral designation.

The ABA recommends Treasury develop optionality for designation along either a dataset or sectoral basis.

Future sectors and datasets for designation

With the designation and onboarding of Energy and Telecommunications sectors in progress, the ecosystem will reach a level of maturity and competency that should enable multiple sectors and datasets to be onboarded concurrently.

The ABA's nomination of future sectors for designation is premised on the basis that:

- (a) they are a rich source of consumer data which is a precursor to consumer product and service innovation and
- (b) consumers' sharing of their data could enable them to enrich their decision making to enable access products and services which fulfil their needs.

The ABA has identified the following as important sectors or datasets for future designation within the next five years:

- Digital platforms – also known as 'big tech', consumer data will enable tailored banking solutions.
- Digital accounting platforms – customer accounting data to be used in lending assessments. This will be especially helpful in the assessment of applications by Small and Medium-sized Enterprises (SMEs).
- Non-bank lenders – to provide a complete view of customer borrowing activity. This includes Buy Now Pay Later schemes.
- Loyalty schemes – the consumer datasets enable developing product and service couplings that are most useful to the consumer.
- Consumer Australian Taxation Office Data – to be used especially in lending to SMEs.
- Australian Securities and Investments Commission (ASIC) registers – to provide corroborating information relating to company registrations and registered officers (e.g.: for SME lending).
- Superannuation – to provide a complete view of a customer's asset base.
- Insurance – including life and general insurance for both consumer and business banking consumers to support credit risk assessment.
- Wealth management¹ and shareholdings – to provide a complete view of a customer's asset base.

¹ For example unlisted and listed funds management, including single unit trusts as well as investment platform or WRAP accounts



Designation of the above will support more efficient, convenient, and appropriate banking services such as the enabling of the pre-population of applications; enabling tailored banking solutions; accurate and timely personal financial management applications; and it will enable financial institutions to meet responsible lending and other compliance obligations in ways that are more convenient and efficient for the customer. This could help to improve application processing times and ultimately result in consumers having a greater appetite to switch providers, encouraging further competition in the industry.

We recommend the next three sectors/datasets for concurrent designation in 2023 to be:

- Digital Platforms,
- Digital accounting platforms, and
- Non-bank lenders (including the dataset for Buy-now-pay-later).

The combination of the designation of these sectors/datasets will provide the banking sector with opportunity for product and service innovation and customisation to provide more tailored products and services customers in a timelier manner.

Reciprocity

We note recommendation 6.9 of the final report of the Future Directions for the Consumer Data Right:

'The Consumer Data Right principle of reciprocal obligations of an accredited data recipient to respond to a consumer's data sharing request should not be limited by the scope of sectoral designations at the time of accreditation. Accredited data recipients should be obliged to comply with a consumer's request to share data which is the subject of a sectoral designation as well as equivalent data held by them in relation to sectors which are not yet designated.'

The ABA considers the principle of reciprocity to be foundational to a competitive and dynamic ecosystem which will give consumers more choice and opportunity to participate in the CDR. Treasury's ability to designate datasets is an important aspect of supporting reciprocity for the ecosystem. The ABA strongly recommends the principle of reciprocity to operate in the broad terms as envisaged by recommendation 6.9 and that it be legislated as soon as possible in 2022.

Steps to strengthen or develop the CDR regime

The Strategic Assessment consultation paper seeks comment in respect to what steps can be taken to strengthen or develop the CDR regime. We recognise that it is not a simple matter to establish a new regime from a standing start; it is the case that improvements will be warranted as the ecosystem matures. On this basis, the ABA makes the following recommendations:

1. Implementation of Recommendation 19 of the first Interim Report of the Senate Select Committee on Financial Technology and Regulatory Technology: *'The committee recommends that the Australian Government establish a new national body to consolidate regulatory responsibilities in relation to the implementation of the Consumer Data Right'*².

We endorse a single government CDR entity, with the compliance and enforcement function carved out specifically and to be held by a regulator.

2. Establishment of a dedicated ecosystem cybersecurity team with the appropriate skills and expertise in API security.
3. Treasury further extending its systems programme delivery expertise to ensure appropriate technical oversight of the ecosystem:
 - a. Treasury further develop technical skill in software management by establishing a dedicated unit within the branch. This unit could also instigate the development of software release notes.

² [The Senate Select Committee on Financial Technology and Regulatory Technology First Interim Report](#) September 2020, page:ix



- b. Standards releases that follow a predictable cycle, with sufficient time to comply, and integrated to the software management and oversight process. This would mean that all changes to the Rules, Standards, and updates to the privacy safeguard guidelines would be channelled through a single release schedule which provides sufficient lead-time for participants to prepare for the changes.
 - c. Development of an information management and dissemination mechanism. The ACCC's CDR portal was adequate in providing information for the initial data holders to facilitate a consistent interpretation of the Rules. However, ADIs which launched after the four major banks could not access the advice easily and in a timely manner. A lack of ongoing guidance will create a risk of compliant but inconsistent implementations across data holders.
 - d. Implementation of cohesive oversight and management of participant solutions testing which includes:
 - i. The facility to undertake end-to-end ecosystem testing.
 - ii. An expanded coverage of the CTS which also validates key parameters to ensure all participants are aligned in their interpretation of the Register standards.
 - e. Implementation of a structured incident management system which enables the appropriate balance between participant confidentiality and ecosystem awareness of issues.
4. Mandating of appropriate licensing of data recipients in receipt of consumer financial data (e.g.: credit license and/or AFSL depending on the use case).

The adoption of these recommendations will prepare the regime for the increasing complexity and volume it will be required to manage as it becomes truly economy-wide and as consumers enter the ecosystem to take advantage of the benefits the CDR will offer.