



Consumer Data Right - Exposure draft legislation to enable action initiation

Submission by:

Skript Pty Ltd

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Skript (ACN 648 590 845)

Level 21, 207 Kent Street

Sydney, NSW 2000

Introduction

Skript welcomes the opportunity to respond to the Treasury's exposure draft legislation to enable action initiation in the Consumer Data Right (Draft Legislation).

An introduction to Skript

Skript (we) was founded on the vision that the future will be about taking banking services to customers rather than making them go directly to a bank. We create solutions that connect businesses to the world of the Consumer Data Right (CDR) to enable the services of this future.

The CDR has already demonstrated promising progress towards empowering Australian consumers to control the sharing of their data in a more secure and accessible way. It is clear that the next step towards making the CDR dramatically more beneficial to consumers is introducing action initiation. After becoming an Active Unrestricted Accredited Data Recipient in August 2022, Skript looks forward to working with Treasury and industry stakeholders to shape this next chapter of the CDR.

A summary of this submission

Skript is very supportive of the Draft Legislation to bring action initiation into the scope of the CDR. We also support the approach to separate the instruction layer and action layer, while limiting the CDR scope to the instruction layer only. This will enable a faster industry rollout without introducing unnecessary regulatory burdens on action service providers (ASPs).

We believe that the Draft Legislation can best position the rollout and uptake of action initiation for success by:

1. Offering a variety of access models for participation with CDR action initiation, ideally remaining consistent with access models already in place for data sharing;
2. Ensuring that CDR action initiation will be a competitive option compared to alternative instruction channels by providing guidance on the pricing of action instructions and requiring actions to be completed in the most efficient way possible;
3. Establishing a framework for the charging of action instruction fees, where relevant, to avoid a complex administrative encumbrance to participants;
4. Acknowledging that accredited action initiators (AAs) will require notifications from ASPs after the action instruction with sufficient information to manage the customer experience; and
5. Prioritising payments as the first action to be designated to provide the most significant benefit to consumers.

1. Access models for action initiation

While Skript agrees that an AAI should be an accredited data recipient (ADR), and also that additional accreditation may be required on a per-action basis, it will be critical that alternative access models are available for consumers and the Fintech industry to fully benefit from CDR action initiation. Specifically, the CDR representative and trusted adviser access models should be considered as they have proven to significantly increase adoption of the CDR.

In the same way an ADR is required to undertake relevant assessments and establish a CDR representative arrangement in order for their CDR representative to access data sharing today, the same process should be available for action initiation. The relevant assessments and any other requirements to establish a CDR representative arrangement is expected to vary across each action type. CDR representatives should still be required to comply with the same obligations and privacy safeguards as their principal to ensure the security and protection of a consumer's data and finances.

Similarly, the trusted adviser model for action initiation should also reflect the existing mechanism in place for advisers that fall within the approved professions to access a consumer's data. An AAI would be required to take reasonable steps to ensure the entity falls within the scope of a CDR trusted adviser, and can then facilitate action initiation from the consumer via the trusted adviser. This will further increase the value of the adviser's service to consumers and aligns with practices already in place today for certain professionals to take actions on their customer's behalf, with the customer's consent.

Limiting the scope so only unrestricted ADRs can initiate action instructions will significantly limit the innovation, adoption and ultimately the value to consumers that is possible with CDR action initiation.

Recommendation 1: Offer a variety of access models for participation with CDR action initiation, ideally remaining consistent with access models already in place for data sharing. In particular, CDR representative and trusted adviser models will be critical to adoption and consumer benefit from CDR action initiation.

2. Non-discrimination of CDR actions

Skript strongly agrees with the Draft Legislation that ASPs must treat a valid CDR action instruction as if it came from the consumer themselves, and not discriminate against instructions that come through the CDR via an AAI. This will likely need to be explored in

further detail for each action, however the absence of high level guidelines or oversight may threaten the competitiveness of CDR actions compared to alternative instruction channels.

Skript would like to highlight that discrimination towards CDR initiated actions can come in several forms, three of which we consider critical:

- I. **Refusal to complete an action:** This is considered in the Draft Legislation, however Skript strongly suggests that ASPs must complete an action where the consumer would be able to undertake that action by going to the ASP directly.
- II. **Anti-competitive pricing for an action instruction:** Skript acknowledges that, for certain actions, it may be justifiable for an ASP to charge a fee to the AAI for the action instruction. This is in recognition that an ASP may bear incremental costs directly associated with the completion of the action initiated through the CDR. However, it is imperative that there is a framework to oversee how these fees are determined. There are two aspects to this:
 - A. **Fee for a CDR action versus other initiation channels:** If the fee is such that it disincentivises an AAI from sending the instruction via the CDR compared to other channels, CDR action initiation will not be a competitive option for AAIs to offer services to their consumers. There should be standardised guidance for each action on how these fees can be priced. Importantly, this should be reasonably and directly related to the incremental costs associated with executing the action initiated through the CDR.
 - B. **Fees across AAIs:** Varying fees for an action instruction across different AAIs would result in reduced competition, particularly for smaller providers, and may limit the innovative solutions available to consumers. It would also mean that AAIs would need to come to a price agreement with every ASP, effectively introducing a commercial barrier to entry in order for a consumer to benefit from CDR action initiation with their selected provider. ASPs should only be allowed to introduce a standard price for each action that applies to all AAIs.
- III. **Completing actions in a less efficient way:** In order for a CDR action instruction to be treated in line with an instruction directly from a consumer, and also to be a competitive service that provides a good experience, ASPs will need to complete the action in the most efficient way possible. For example, if a bank has real-time payments enabled, a CDR payment instruction should be fulfilled through this capability rather than a non real-time alternative. To determine what would be considered the most 'efficient' way possible, Skript considers it reasonable to point to the most efficient method available in the ASPs online portal, for example, the ASP's online banking platform, or by contacting the ASP directly. This way ASPs will not be providing a capability that is above and beyond what a consumer could access by going directly to the ASP.

Recommendation 2.1: Require that ASPs must complete an action where the consumer would be able to undertake the action by going directly to the ASP.

Recommendation 2.2: For each action that is designated where an ASP is permitted to charge a fee at the action instruction layer, introduce a standardised framework on how this fee can be priced relative to alternative initiation channels. Any fees should be reasonably and directly related to the incremental costs associated with executing the action initiated through the CDR.

Recommendation 2.3: Require that, where an ASP is permitted to charge a fee at the action instruction layer, that fee must be standard across all AAls.

Recommendation 2.4: Require that an ASP completes an action in a way that is at least as efficient as if the consumer were to provide the action instruction directly to the ASP via their online portal or by contacting them directly.

3. Administrative complexity of introducing fees for action instructions outside CDR framework

Skript agrees that it may be reasonably justifiable to introduce potential fees for certain action instructions. However, in addition to Recommendations 2.2 and 2.3, we consider it necessary that the charging of these fees be governed and managed within a CDR framework that is overseen by a central body. Expecting AAls and ASPs to manage action instruction fees outside the scope of the CDR will introduce significant logistical challenges to the industry. Each AAI would need to establish and manage billing arrangements with all ASPs, resulting in a complex and highly administrative burden to the ecosystem. This will also disproportionately disadvantage smaller providers with less resources.

We also suggest that, in order to avoid an additional barrier to participants, the commercial arrangement between AAls and ASPs be managed via a technical registration mechanism similar to the Dynamic Client Registration process in CDR data sharing today. The completion of this registration process would represent each party's acceptance of any relevant obligations

within the CDR framework and associated fee charging. Once an AAI and ASP have undergone this registration, an ASP should not be able to require a separate commercial construct before action instructions can be accepted from that AAI.

Recommendation 3.1: If it is determined that ASPs can charge a fee for an action instruction, then a central body should be appointed to govern the fee charging framework. The scope of this body should include the logistics and administration of charging and paying CDR action instruction fees, and may also include the oversight of how ASPs price these fees (see Recommendations 2.2 and 2.3).

Recommendation 3.2: Restrict an ASP from requiring a commercial arrangement outside the CDR framework to be executed before action instructions can be accepted from a particular AAI. This could be addressed via a technical registration process between the ASP and AAI.

4. Outcome response from an ASP following an action initiation

While Skript strongly agrees with the approach to limit the scope of CDR action initiation to the instruction layer, it will be critical that an ASP provides a response to the AAI after the instruction was received with sufficient detail on the outcome of the instruction. As the consumer-facing entity, the AAI will need enough information to manage the customer experience. For example, if a payment instruction was not completed because there were insufficient funds in the account, the AAI requires this information so that the CDR remains transparent and informative to a consumer.

We suggest that a reasonable measure of 'sufficient detail' is the same level of detail the consumer would get by interacting with the ASP directly. Where possible, existing practices around response codes and messages relevant to particular actions should be relied upon rather than establishing new CDR-specific standards.

Recommendation 4: Require that an ASP provide a response to an AAI after receiving an action instruction with the same level of detail on the outcome as if the consumer were interacting with the ASP directly.

5. Prioritisation of payments

Skript is a strong advocate for payments as the most highly prioritised action type, for three reasons:

- I. **Payments are an everyday need:** In 2020/21, Australians made around 625 electronic transactions per person on average¹ per annum. In comparison, other actions like switching providers or updating details are typically undertaken a handful of times per person throughout a year. Payments are an everyday need, and will significantly increase the value that the CDR can bring to consumers.
- II. **Complementary payment capabilities:** CDR initiated payments would also be highly complementary to other payment capabilities already available in the market, or currently in development. The ongoing rollout of PayTo has been a significant addition to the Australian payments landscape. CDR initiated payments and PayTo will each serve different use cases as one is a push payment in nature, while the other a pull payment. While PayTo supports merchant-initiated payments, CDR payments could be initiated by consumers. These services are highly complementary and will both benefit Australian consumers in different ways. When developing technical specifications and CX guidelines, both services should be considered to ensure as much alignment and interoperability as possible to provide the best outcomes for consumers.
- III. **Existing infrastructure:** Introducing payments as the first action type would leverage Australia's relatively mature payments industry, which is well suited to receiving and acting on digital payment instructions. There are also existing payment messaging standards that can be leveraged. If the CDR were to begin with an action like switching providers, this would be a new concept for the market and would introduce complexities like AML/KYC obligations that are necessary in order to complete the action.

Recommendation 5: Prioritise payments as the first CDR action to be designated to maximise consumer benefit.

¹ Reserve Bank of Australia. (2021). *The Evolving Payments Landscape | Payments System Board Annual Report – 2021*
<https://www.rba.gov.au/publications/annual-reports/psb/2021/the-evolving-payments-landscape.html>