



14 October 2022

Rules Unit  
Consumer Data and Digital Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

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

Dear Sir / Madam

**RE: Consumer Data Right – expansion to the telecommunications sector and other operational enhancements – consultation**

Thank you for the opportunity to respond to the consultation regarding the exposure draft *Competition and Consumer (Consumer Data Right) Amendment Rules (No. 1) 2022* (the **Amending Rules**).

Overall, we broadly welcome the expansion of the Consumer Data Right (**CDR**) to the telecommunications sector. The CDR must remain an economy-wide framework and the continued designation of future industry sectors is vital to this.

Our comments below, however, are limited to the Operational Enhancements to the CDR Rules proposed by the Amending Rules. These are the most relevant to our current business activities and represent insights from our growing expertise in this segment.

## **1. About Mastercard**

Mastercard is a technology company in the global payments industry that connects consumers, financial institutions, merchants, governments, digital partners, businesses and other organisations worldwide, enabling them to use electronic forms of payment instead of cash and cheques. We make payments easier and more efficient by providing a wide range of payment solutions and services using our family of well-known and trusted brands, including Mastercard®, Maestro® and Cirrus®. We operate a multi-rail payments network that provides choice and flexibility for consumers and merchants.

At Mastercard, our key strategic priorities are:

1. **Expand in payments.** We continue to focus on expanding upon our core payments network to enable payment flows for consumers, businesses, governments and others, providing them with choice and flexibility to transact across multiple payment rails.
2. **Extend our services.** Our services drive value for our customers and the broader payments ecosystem. We continue to do that as well as diversify our business, by extending our services, which include cyber and intelligence solutions, insights and analytics, test and learn, consulting, managed services, loyalty, processing and payment gateway solutions for e-commerce merchants.

3. **Embrace new network opportunities.** We are building and managing new adjacent network capabilities to power commerce, creating new opportunities to develop and embed services.

Through our third strategic priority, we are focused on opportunities to enable Open Banking with everyday consumers. We are inspired by the vision of empowering consumers with control of their data so that they have more choice, at a greater convenience and with trust in the ecosystem, to switch products, make better decisions and ultimately benefit more tangibly from the digital revolution. We currently do this by providing our Fintech and financial institution partners with Open Banking products and services that enable them to reliably access, transmit and manage consumer data to meaningfully enhance their customer experience and win in a rapidly changing market at a global scale.

We see a future where individuals and organisations are empowered to access and share their data across multiple applications and services to improve their ability to make smarter decisions. We believe that secure data access, high data quality, and intelligent data enrichment are fundamental to unlocking the value of Open Banking both with businesses and their customers.

## 2. Business Consumer Disclosure Consent

Mastercard welcomes the creation of a new "business consumer disclosure consent". Sensible expansion of the CDR through new concepts and access models helps to encourage innovation, and Mastercard agrees that this concept will help to alleviate some of the existing problems faced by CDR participants when dealing with business consumers. The ability for businesses to be able to consent to their CDR data being shared with specified, unaccredited third parties (beyond Trusted Advisors) is crucial in allowing accredited persons to develop useful and compelling use cases for business consumers.

With respect to the obligation on accredited persons to take reasonable steps to confirm the status of a CDR business consumer, Mastercard would welcome confirmation that by verifying a business consumer's status using the Australian Business Register search functionality, the accredited person will be deemed to have discharged this obligation.

Mastercard is supportive of the corresponding proposal to extend the maximum duration of certain use and disclosure consents given by a CDR business consumer to 7 years. However, we would also suggest that consideration should be given to:

- expanding this concept to all CDR consumers (not just CDR business consumers). There are a number of use cases in which a non-business CDR consumer may want to avoid their CDR data becoming redundant once a consent ceases. For example, a consumer may invest significant amounts of time tagging transactions within a personal financial management app which would need to be destroyed if the consent expired without it being amended for an additional period of time;
- empowering consumers to elect when their CDR data should become redundant. Consumers may want a business to retain enriched or derived CDR data as a record that they can revisit if needed. For example, an application using CDR data to help consumers with their taxes may want to empower consumers to revisit their tax statements during future tax seasons.

## 3. Enhancements to CDR representative and CDR outsourcing arrangements

Mastercard welcomes and is supportive of the changes to CDR Representative and CDR outsourcing arrangements.



The removal of the prohibition on CDR representatives from appointing outsourced service providers (**OSPs**) is of particular importance and benefit to industry. It will allow CDR Representatives to more easily engage with third-party service providers to supplement and enrich their value chain. This is critical within the FinTech segment, as these entities typically have limited runway and appetite to build everything in-house.

Similarly, the current position which requires OSP arrangements to be concluded between the CDR Principal and the OSP creates unnecessary complexity. It introduces a new commercial and contractual relationship between the OSP and the CDR Principal in circumstances where it more logically should be between the CDR Representative and their vendor of choice. As a result, we see this change as being fundamental to the continued viability of the CDR Principal / Representative access model.

Mastercard also welcomes the consolidation of key obligations of CDR Representatives into a standalone division of the CDR Rules. The new concepts of "Chain Principal", "Direct OSP" and "Indirect OSP" provide clarity on each participant's roles and responsibilities and we welcome this change.

#### **4. Delay in reciprocal data sharing obligations**

Mastercard is supportive in a delay in reciprocal data sharing obligations for accredited data recipients (**ADRs**) by 12 months.

However, as more cross-sectoral use cases emerge, businesses may be reluctant to join the regime prior to their industry's designation. We suggest that this delay is extended to ADRs holding any designated data sets, and not just banking data. This will encourage more active participation in the CDR regime by reducing the initial costs and complexity of achieving accreditation within the regime.

#### **5. Exemption for small-scale pilot products**

Mastercard acknowledges the proposal to allow data holders to publicly offer small-scale pilot products without being subject to CDR data sharing obligations. This is a sensible proposal that will help to foster the continued product development and innovation within each designated sector by data holders.

#### **6. Additional consumer dashboard functionality**

Mastercard acknowledges the proposal that accredited persons may include in their dashboard the ability for consumers to request disclosure of corrected CDR data.

While Mastercard supports this proposal in principle, we consider that its technical implementation will be challenging, particularly with respect to the disclosure of corrected CDR data. We recommend that the mechanisms to do this are defined within the CDR Standards after open consultation with industry participants.

#### **7. Further discussion**

Mastercard appreciates the opportunity to comment on the Amending Rules. We would be pleased to meet with Treasury to discuss the contents of our submission further.



If you would like to discuss the contents of our submission, or require additional information, Cassandra Smith, Director Public Policy, can be contacted via email at [cassandra.smith@mastercard.com](mailto:cassandra.smith@mastercard.com).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Richard Wormald', written in a cursive style.

Richard Wormald  
**Division President**  
**Australasia**

