25 October 2023

Consumer Data Right Policy and Engagement Branch   **By Email**
Market Conduct and Digital Division   data@treasury.gov.au
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir / Madam,

RE: **Screen scraping – policy and regulatory implications – discussion paper response**

Thank you for the opportunity to respond to the discussion paper regarding the policy and regulatory implications of regulating screen-scraping (the **Discussion Paper**).

Our comments in this response on screen scraping are specific to the Australian market. We strongly support the broader transition to API-based services. We recognise that different market forces and regulatory regimes can mean that, in some other markets, API-based infrastructure often either does not yet exist or cannot yet be supported by all financial institutions and industry participants. In these circumstances, screen scraping may be a necessary means of enabling customers to benefit from the ability to share their data with trusted service providers, until the market is able to successfully transition to API-based connections.

In Australia however, the Consumer Data Right (**CDR**) framework already enables customers in the banking sector to share their data with trusted service providers using secure, API-based connections. The Government should work with industry participants to ensure that the required improvements to the CDR are made, so that ultimately it can replace screen scraping in the banking sector altogether. We detail our views on the steps that need to be taken in order for the CDR to serve as a viable alternative to screen scraping in section 2 below.

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:

I.   **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.

II.   **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.

III.   **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.

In Australia, Mastercard is an unrestricted Accredited Data Recipient (**ADR**) and is actively involved in the CDR ecosystem. We are committed to supporting the growth of Open Banking in Australia and working to increase consumer uptake, to ensure more Australians have the ability to benefit from the CDR.

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. Consultation response

Mastercard appreciates the opportunity to respond to the Discussion Paper and commends Treasury for taking the first steps towards regulating screen-scraping in Australia.

Mastercard would support a ban on screen-scraping in the Australian banking sector, once CDR is a confirmed viable alternative. We have invested in the CDR in Australia because we believe in its potential to unlock tremendous value for Australian consumers through the safe and secure sharing of data. Facilitating an orderly transition away from screen scraping represents a unique opportunity to boost participation in the CDR, thereby providing more consumers and businesses with the chance to share in the benefits it was designed to bring to the Australian economy.

However, we recognise that the CDR has not yet reached its full potential in Australia. More work can and needs to be done to fix ongoing data quality issues, improve coverage of business accounts, streamline consent and authentication flows, and harmonise the rules related to disclosure of CDR data to third parties. These issues need to be solved before the CDR can serve as a truly viable alternative to screen scraping in all cases.

We also consider that action initiation needs to be prioritised as a key enabler of innovation, competition and increased value for consumers.

Current use of screen scraping in Australia

In many markets, screen scraping has been a historically necessary part of the data sharing economy. It has powered commerce and enabled use cases in many sectors, allowing consumers to unlock the power of their data. In Australia, it is particularly prevalent in the mortgage broking, accountancy, financial services and lending sectors. For service providers in these industries, efficient access to customer data is often a prerequisite to their ability to serve customers – and screen scraping has traditionally facilitated this access. It is an embedded and longstanding practice.

But as technology continues to evolve and mature, API-based connectivity solutions will naturally begin to displace industry reliance upon screen scraping. Mastercard has taken a market leadership role in the adoption of API connectivity and in more mature markets like Australia, we are exclusively using APIs. API-based connectivity solutions bring clear benefits to consumers, businesses, and governments: they are inherently more secure; they can serve as a catalyst for innovation and competition; and when implemented effectively, they offer a much better experience for consumers.

It follows that where a viable, API-based connectivity solution exists, it is in the collective interests of consumers, businesses and governments to facilitate a transition away from screen-scraping. Indeed our experience has been that several major Australian banks are already actively blocking new screen scraping connections, as the direction of travel of the market is clear. In our view a carefully thought through mandated ban of screen scraping in Australia will speed up this transition, for the ultimate benefit of consumers.

The transition to CDR
The Australian Government, and participants within the banking and energy sectors, have invested significantly in the CDR. It is an ambitious, economy-wide data access scheme designed to enable the safe, secure and trusted sharing of data, whilst promoting innovation and competition. It has been up and running in the banking sector for over three years now, with coverage extending to some 99% of all Australian banking customers.

But despite this, many service providers which have historically relied on screen scraping to obtain banking transaction data have had little or no incentive to switch. In our view there are four key deterrents that must be solved before the CDR can truly serve as a viable alternative. Taking each in turn:

- **Data quality and integrity issues**: concerns around data quality in the CDR are well known and well documented – the Statutory Review made a specific finding that data quality was limiting wider adoption of the CDR and acting as a strong disincentive for many market participants to switch from screen scraping. This is undoubtedly a key barrier to increasing adoption of the CDR and decreasing reliance on screen scraping. Treasury, the ACCC and the DSB must continue to work with ADRs and data holders to improve the quality of data that is made available via the CDR, including data refresh capabilities and overall data holder API performance and availability metrics.

- **Coverage of business accounts**: coverage of business accounts in the CDR is another key reason why the CDR hasn't seen large-scale adoption in business-orientated use cases, such as B2B lending. Coverage of business accounts can vary markedly between data holders in this segment, and ongoing issues related to the nominated representative framework can make it difficult to establish reliable CDR connections to business accounts. While noting recent proposals designed to streamline the process for appointing nominated representatives, we would urge Treasury and the DSB to continue working with ecosystem participants to close other gaps related to business account coverage.

- **Onerous consent and authentication requirements**: the Statutory Review also found that the consent process is central to the CDR's realisation of informed consumer decision

making and delivery of consumer benefits. Specific improvements that could be made here include changes to requirements relating to bundling of consents and pre-selection of mandatory fields, streamlining of information disclosure requirements and simplification of the rules pertaining to de-identification of CDR data. Again, while we note recent proposals designed to address these and other issues in the consent process, we believe more work is needed, given the fundamental importance of a seamless and convenient consumer experience to conversion rates and overall CDR uptake. The approach should balance the need for consumers to receive necessary information to make an informed choice, with the need to present a seamless and convenient experience which reduces friction wherever possible and maintains focus on promoting competition and innovation.

- **Rules related to use and disclosure of CDR data**: although the Government has taken steps to introduce more flexibility into the CDR regime (for example through the creation of additional access models or the adoption of recent rule changes around business consumer disclosure consents), a constant sticking point for use case enablement has been the restrictions that apply to use of CDR data by ADRs, and subsequent disclosure of CDR data to third party recipients. Often, when the same data is obtained via screen scraping, those restrictions do not apply or are much less onerous in nature. Streamlining requirements between the CDR Rules, the Privacy Act and other relevant frameworks is crucial to ensuring that service providers can use CDR data in the same way they use screen scraped data today.

These issues are well-known and plenty of effort has been (and continues to be) directed towards solving them. A phased transition away from screen scraping will serve to provide fresh impetus for industry participants to continue to work constructively together to address these issues and improve the ecosystem as a whole.

Framework for regulation of screen scraping
We consider the following principles should be taken into account when implementing a phased transition away from screen scraping:

- **Timeline**: industry participants will need sufficient time to migrate to the CDR, particularly in sectors where screen scraping connections are deeply embedded within current business operations. We would suggest a 3 to 5-year time period as a starting point, but would encourage Treasury to work closely with industry participants throughout this period, particularly those service providers whose businesses would be directly affected by the ban. Progress against key milestones (which could include milestones related to the four issues described above) should be monitored at key checkpoints.

- **Scope**: data collection via screen scraping should be prohibited in respect of data fields that are included and available within the scope of the CDR (including as the CDR evolves over time). In our view, the majority of use cases delivered by service providers which currently rely on screen scraping leverage banking transaction data. This is the essential data that facilitates the provision of financial advice, accountancy services or credit decisioning – and it is largely already included within the scope of required consumer CDR data that data holders are mandated to share. To the extent industry participants identify gaps in the nature of the transaction data that is available via the CDR versus what is available via screen scraping, these gaps should be closed, but we consider the CDR is already well positioned to deliver the required data for many current use cases.

In addition, we would advocate in favour of regulation which *requires* utilisation of API connections (i.e. through the CDR), rather than regulation which, as an alternative option, permits service providers to continue with a form of modified screen scraping that meets certain conditions, for example where the provider is able to identify themselves to the bank when accessing customer

data. This latter approach was taken in the European Union under PSD2, where in certain circumstances, financial institutions could comply with their data sharing obligations by adapting their customer-facing interfaces to enable third parties to identify themselves (sometimes referred to as a "modified customer interface" or "screen scraping plus"). In practice however, this led to market fragmentation and inconsistencies in approach, and the EU Commission has recently proposed new legislation that, among other things, proposes to remove this access mechanism altogether, instead mandating the use of APIs in all circumstances. Given the existence of the CDR and the clear potential for it to act as a viable alternative to screen scraping, we do not believe that a similar "fallback" mechanism would be necessary in Australia.

The importance of action initiation
Finally, we would also like to take the opportunity to note the importance of bringing action initiation to the CDR. Action initiation is a critical step towards unlocking the full power of the regime – as the Statutory Review noted, it is a potential "game changer" that fundamentally increases the functionality of the CDR. A timeline for the introduction of action initiation would serve as another major incentive for providers who have traditionally relied on screen scraping to make the switch and embrace CDR, enabling them to realise even greater benefits from the CDR. It would also allow the existing CDR ecosystem to capitalise on the momentum that a screen scraping ban would naturally create.

3. Further discussion

Mastercard appreciates the opportunity to comment on the Discussion Paper. 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, please contact Ali Steele, Senior Counsel Regulatory Affairs at ali.steele@mastercard.com or Mitch Thorp, Senior Counsel Open Banking at mitch.thorp@mastercard.com.

Yours sincerely,

Richard Wormald
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Australasia