Tiimely

The pursuit of seamless

Dear CDR Rules team

Tiimely is a platform technology company that started with a mission to revolutionise the mortgage experience. Tiimely has provided digital home loan application, assessment, and approval services to customers in Australia since 2017. Tiimely also provides both Software as a Service (SaaS) and Platform as a Service (PaaS) product offerings to the financial service industries in Australia and New Zealand. The platform's PaaS offerings, and Tiimely's own retail home loans, are funded by Bendigo and Adelaide Bank Limited's white label program.

Tiimely welcomes the Government's recent commitment to the future of the Consumer Data Right (CDR) and the proposals for CDR rule amendments that will reduce the current friction in the consumer consent flow and facilitate greater use of the CDR.

However, Tiimely considers that the current proposals will not be sufficient to drive CDR adoption at the scale that is required to demonstrate its value as an alternative to screenscraping and other data ingestion options (such as upload of bank statements) which is growing and will continue to grow as a preferred data access model as the effects of the existing soft ban on screenscraping increase.

In our view, the CDR is at an existential juncture which necessitates the Government making urgent decisions to remove the barriers to data recipient adoption of the CDR. This requires a paradigm shift in the regulatory model for CDR and focus on the CDR's competition objective. The "derived data" problem that is the root cause of lack of adoption and which drives the complexity of the CDR rules and CDR access models requires an urgent legislative solution. Given that Privacy Act reform appears to be stalled and years away from commencement, we urge the Government to take a pragmatic and decisive approach to address this issue for the benefit of Australian consumers.

Our comments on the specific proposals that were the subject of consultation are set out at Annexure A. We would be happy to discuss our submission with the CDR Rules team.

Yours sincerely,

Jodi Ross
Chief Risk and Compliance Officer

9 September 2024

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Annexure A – Response to consultation proposals

Section 1 - Consent Review

Proposals 1.1 and 1.2: Allowing a data recipient to bundle CDR consents and allowing data recipient to pre-select the elements of an individual consent that would be reasonably necessary for the data recipient to provide the good or service

Tiimely supports the intent of these proposals which we understand will reduce the number of consent screens and 'clicks' that consumers need to engage with in order to provide consent to an accredited data recipient (ADR). This is an important measure to encourage CDR uptake by making the CDR consent process as seamless as possible for consumers while also providing an appropriate level of transparency and opportunities for active decision-making.

Tiimely's view is that the implementation of these proposals requires further consideration in relation to the use of the phrase "reasonably needed" and linking these permissions to the data minimisation principle. Our key concern is that this concept is being paired with requirements to explain to consumers in the consent flow why bundled consent and pre-selected data sets are needed to provide the requested product or service. In our view, amendments to the CDR rules should avoid adding to the information to be provided to consumers in the CDR consent flow about matters that are not material. Our preference would be for the draft rules to allow bundling and pre-selection to occur where 'required' or 'necessary' to provide the good or service if that will reduce the additional information to be included in the consent process.

Proposal 1.3: Simplifying the information a data recipient is required to provide to the consumer at the time of consent

Tiimely supports this proposal.

Proposals 1.4 and 1.5: Consolidation of delivery of 90-day notifications to reduce consumer notification fatigue and simplifying the obligations in relation to CDR receipts

Tiimely supports these proposals.

Proposal 1.6. Requiring a data recipient to provide consumers information about all supporting parties who may access the consumer's data at the time a consumer gives a consent

Tiimely does not support this proposal on the basis that the appropriate place for additional information to be provided about OSPs as supporting parties is an ADR's CDR policy. In our view, the amendments to the CDR rules should prioritise reduction of information in the consent flow rather than increase it and there should be a clearer distinction between the nature of the information to be provided as an essential element of the consent process, and the nature of the information provided

in a CDR policy. Under the current proposal it is difficult to understand what additional information should be provided in a CDR policy than that already disclosed in the consent flow.

Proposal 1.7. Requiring data recipients to delete redundant CDR data unless a consumer has given a de-identification consent

Tiimely does not support this proposal.

We note that this proposal is not aligned with the Privacy Act reform report which did not recommend deletion of redundant data by default and contained recommendations accepted in principle by the Government in relation to the creation and management of deidentified data and the right to erasure. Where possible the CDR should seek to align with the future direction of the Privacy Act reforms. If the proposals were to proceed, we recommend that consideration is given to the rules providing for an authorisation to deidentify CDR data for legitimate commercial purposes such as product innovation and research and training of machine learning models (with appropriate safeguards as proposed in the Privacy Act reform recommendations).

Tiimely's understanding is that the current rules relating to the right to elect to delete redundant data were created to meet the requirement in the legislation for the rules to provide for a right to delete - it is not clear how that right will work in the context of this proposal. We also question whether the rules can validly prescribe that all redundant data must be deleted based on the terms of Privacy Safeguard 12 which clearly envisages either deletion or deidentification of redundant data (with the rules able to set out the steps to be met for either process).

1.8. Requiring a data recipient to advise consumers of the marketing activities they will undertake because of a direct marketing consent

Tiimely does not support this proposal on the basis that additional information about direct marketing activities is unnecessary and should not be mandated in the consent flow. We consider that direct marketing is a well understood term and consumers are able to make a fully informed decision about what this consent relates to - if further information is considered necessary, the appropriate place to provide that is the ADR's CDR policy.

Section 2 - Operational enhancements

Proposal 2.1. Nominated representatives

While the key use cases supported by Tiimely are not focussed on business consumers, we recognise and support the importance of business use cases such as lending and accounting platforms to encourage uptake of the CDR. We therefore support rule changes that will facilitate more efficient and accessible data sharing on behalf of business consumers. Given there will be build requirements for banks arising from this proposal, we consider that the benefit of any revised obligations should be maximised by deeming any person who is able to read account data on behalf of a business to be able to consent to share that data under the CDR. A similar approach was successfully taken to address the initial issues experienced with sharing of data by joint account holders. In our view, the

exercise of the right to share data is appropriately a matter for individual businesses to manage by way of authorisations and delegations, recognising that access to and sharing of confidential information is an issue that all businesses currently manage outside of the CDR.

Proposal 2.2. Expanding the circumstances in which accredited ADIs can hold CDR data as a data holder

Tiimely generally supports this proposal on the basis that use of CDR data by banks (ADIs) to support their use cases will be important to expand CDR-enabled products and services and consumer adoption. However, the compliance challenges created by the bespoke CDR privacy regime is an issue faced by all ADRs so it is important for Treasury and the Minister to be mindful of the core competition objective of the CDR. This requires the resolution of the derived data issue as a matter of priority to ensure an even playing field for all ADRs.

Is the requirement for the ADI to provide information about the manner in which they propose to treat the data adequate to ensure the consumer has the information they need to make a decision to allow data to be held as a data holder rather than an ADR?

Should the ADI be required to advise the consumer that the data will be subject to the Australian Privacy Principles?

Tiimely considers that further consideration of the above questions is required before settling on any mandated consumer notification requirements and proposes that the rules provide for this issue to be subject to CX standards. Holding CDR data as a data holder is a nuanced and abstract concept that does not lend itself to meaningful disclosure in a consent flow and we do not agree that with the assessment in the Privacy Impact Assessment that there are significant practical differences in data management that will necessitate disclosure. This is an area that would benefit from CX research.

We also note that guidance in relation to the use of service providers by ADIs would be helpful, and updated CX guidance relating to the CDR consent flow where the new rule applies, as in many cases it is only a CDR collection consent that may be required to be sought under the CDR regime.

Are the new circumstances sufficiently broad to support key use cases for accredited ADIs receiving CDR data?

Potentially not – if the CDR data that falls within scope for proposal 2.2 is limited to the data falling within the banking sector designation, once CDR data from the non-bank lending sector is available, for a lending use case this would mean that all of the CDR datasets collected to support a lending decision would not be covered by the rule.

Should these broadened circumstances be replicated for energy retailers (see existing clause 9.2, Schedule 4) and for non-bank lenders?

Tiimely supports the replication of this proposal for energy retailers and non-bank lenders noting one of the key objects of the CDR is encouraging competition. However, as noted above, while the uptake

of CDR by data holders is to be encouraged, these rules will exacerbate the uneven playing field that exists now for management of CDR data by ADRs versus the management of personal information under the Privacy Act. For this reason, we encourage the Government to consider urgent legislative reform to ensure an even playing field for all ADRs.