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

Sent via email: data@treasury.gov.au
CC: CBAOpenBanking@cba.com.au

14 October 2022

Dear Rules Unit,

Subject: Consumer Data Right (CDR) rules – expansion to the telecommunications sector and other operational enhancements (operational enhancements)

The Commonwealth Bank of Australia (the CBA) welcomes the opportunity to provide comment on the proposed operational enhancements to the CDR Rules.

We note that while the consultation applies to rule changes pertaining to the telecommunications sector more broadly, the CBA has not commented on those aspects. Our observations relate specifically to the operational enhancements.

The CBA is supportive of CDR rule amendments that promote the efficient and effective functioning of the CDR and which deliver benefits to consumers and small businesses, as well as reduce complexity in the CDR framework. However, we make the observation that the proposed operational enhancements are significantly important to warrant a separate consultation process.

Allowing business consumers to share their data with more third parties

The creation of a “business consumer disclosure consent” means that businesses will be able to consent to their CDR data being shared with specified persons such as unaccredited third parties like bookkeepers, consultants and other advisers who are not classified as trusted advisers under the current CDR Rules.

We acknowledge that extending data sharing beyond existing third parties would allow the CDR ecosystem to grow which would be beneficial. However, we submit that this proposal should only be implemented if accompanied by the extension of privacy safeguards to all unaccredited third parties – both existing and proposed. This would improve the security posture for CDR data and should be considered accordingly.

Obligations other than the Privacy Safeguards that may apply to business entities (such as duties of confidentiality) should also be considered.

We also observe that the data security issue was previously raised via Decision Proposal 225 (DP 225) – Data Recipient Security Standards, at the time additional participation pathways were added to CDR. At the time, DP 225 was closed without resolution. We recommend the DSB to review this matter again in the context of the proposed operational enhancements.

Reciprocity of data sharing

Further to the proposal to extend data sharing to additional unaccredited third parties, such as bookkeepers and accounting software providers, we believe that Treasury should consider designating these datasets and/or sectors so that data can be shared safely, securely and on equivalent terms within CDR. This would also promote competition and innovation and provide an opportunity for further use cases to be developed.

On the principle of reciprocity generally, previously banking sector reciprocal data holder obligations began to apply to non-authorised deposit taking (ADI) entities immediately after the entity became an accredited data recipient (ADR). The proposed amendment will change this to 12 months after the non-ADI entity has become a CDR data holder. Whilst we note this may alleviate the ADR from compliance obligations in the start-up phase, we recommend that the period be limited to 6 months unless assessed on merit on a case by case basis.

Extend business consumer use and disclosure consents from 12 months to 7 years

The proposal to extend the maximum duration of certain use and disclosure consents given by a CDR business consumer from 12 months to 7 years may help to address existing data retention concerns for data holders.

Resolving these concerns would allow for the development of certain use cases and could overall be beneficial for business consumers. Whilst we recognise the operational efficiencies for business consumers flowing from this change, our recommendation is to streamline the process for businesses to re-consent without having to go through the full approval process for data sharing again. This would be particularly important in cases where business ownership changes occur.

Enhancements to CDR representative arrangements and CDR outsourcing arrangements

We support the proposed measures to remove the prohibition on CDR representatives in engaging outsourced service providers (OSP's) and note that it clarifies the circumstances in which OSPs can disclose CDR data.

Exemption from data sharing obligations for small-scale, publicly offered pilot products

We support the proposal to allow data holders in the banking sector to be able to publicly offer small scale pilot products (for up to 1,000 customers and for a 6-month maximum duration) without being subject to data sharing obligations. This could be also be extended to larger pilot programs as the CDR continues to grow.

Additional consumer dashboard functionality

Consumers are currently able to correct their data per Privacy Safeguard 13, however automating this process would require a significant amount of technical implementation build for little return, given the low volume of data correction requests at present. We recommend that the requirement to automate this process be deferred, or at least not mandated until such time as there is value to the ecosystem.

Record keeping and reporting

We have interpreted this proposal as expanding record keeping and reporting to additional complaints related information and recommend that Treasury clarify the specific intention and requirements so that we may further comment.

In conclusion, the CBA submits consideration of the above recommendations.

Thank you for the opportunity to provide feedback. If you would like to discuss this information further, please contact me on 0417 065 382, or by email to Katherine.Sleeth@cba.com.au.

Yours sincerely,

A handwritten signature in black ink that reads "Katherine Sleeth". The signature is written in a cursive, flowing style.

Katherine Sleeth
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