

AIIA Submission to
Strategic Assessment Consultation
for the Consumer Data Right

24 August 2021



About the AIIA

The Australian Information Industry Association (AIIA) is Australia's peak representative body and advocacy group for those in the digital ecosystem. We are a not-for-profit organisation to benefit members, and AIIA membership fees are tax deductible. Since 1978, the AIIA has pursued activities to stimulate and grow the digital ecosystem, to create a favourable business environment for our members and to contribute to Australia's economic prosperity.

We do this by delivering outstanding member value by:

- providing a strong voice of influence
- building a sense of community through events and education
- enabling a network for collaboration and inspiration; and
- developing compelling content and relevant and interesting information.

We represent the end-to-end digital ecosystem in Australia, including:

- multinational companies
- large Australian technology, telecommunications and digital and cloud infrastructure companies; and
- a large number of small and medium businesses, start-ups, universities and digital incubators.

Introduction

The AIIA welcomes the opportunity to contribute to this Strategic Assessment of the Consumer Data Right (CDR) and its implementation.

The AIIA supports a safe and secure alternative to third-party data sharing which requires poor cybersecurity practices such as the disclosure of usernames and passwords or reliance on printout, paper-based data sharing.

The AIIA would suggest that the implementation and full use of the CDR should be secured, realised and analysed on a costs-and-benefits basis in the first and second sectors – banking and energy – before the rollout marches on sector-by-sector, year-by-year. Learning from the lived experience of this sector, both from data holders and recipients, will be crucial to the management and success of the CDR going forward. Foregone conclusions and theoretical benefits must yield to detailed projections, articulated benefits to both industry and consumer, and specific use-cases.

The AIIA posits that many sectors, including the telecommunications sector, already have data portability tools in place, meaning there could be less of an urgent need for the CDR in these industries. While Australia is not the first country to offer data portability outside of the banking sector, given there is a broad provision in the European Union's GDPR awarding data portability rights to all consumers, Australia should nevertheless proceed with caution as this scheme's focus on data interoperability and transfer of data is novel.

Rather than embarking on an ambitious whole-of-economy expansion, Treasury should squarely focus on industries that have already been designated for CDR rollout rather than seeking to add to the list. The government must be prepared to change course, slow down or modulate its approach based on demonstrated benefits and results. In addition to costs-and-benefits analyses, the AIIA would also suggest that transparency be provided in respect of how the scheme is currently being used by consumers, as this could prove instructive to industry.

As to approach, if the government indeed decides to apply a life-event or customer decision trigger-point lens to the rollout of the CDR, it ought to ensure that the sequential prioritisation of CDR for particular datasets (i.e., consumer data vs. product data) is as clear, simple and pre-planned for industry as possible, given this approach may lead to an inconsistency in the order of designation for different kinds of datasets across different sectors.

The renewal and currency of consent, the storage and encryption of data, the problem of joint account holders, and the complexity of dual status of data holder and data recipients, all mean that process and data hygiene according to clear standards are of the utmost importance. The cost and practical workarounds industry must take to address these complexities must be formally assessed by government and worked through with industry representatives.

Consumer acceptance

“Consumers may have concerns about the sharing of data with particular businesses, or the sharing of particular types of data, via the CDR. While certain kinds of data may be considered sensitive, such as location data or internet browsing data, data may also become sensitive when combined with other datasets. As awareness of the CDR increases, however, consumer familiarity and confidence in the CDR can also grow.”¹

In view of the above concerns, the government must formulate a comprehensive plan for this education piece – focused equally on reassurance, awareness, and information.

Consumer wariness of the distribution of their data to third parties, especially if as the discussion paper suggests there is the proposition of datasets being synthesised or combined out of view of the consumer in some way in order to yield greater insights, must be accounted for and assuaged in government messaging via a focus on security, data hygiene and rigorous standards. The treatment of data backups and copies and the life-cycle of data must be established and communicated to the consumer at the point of consent.

Digital Identity considerations

In response to some of the examples found in the discussion paper regarding the upload of time-consuming identity verification documents, the AIIA would urge the government to ensure that using the CDR as a replacement for user-controlled uploading of identity documents aligns to the Digital Identity framework being developed by the Digital Transformation Agency and does not cause any duplication in this regard.

Scope, rationale and lack of clarity as consumer benefits and costs to industry

Although the AIIA understands that the Consumer Data Right (CDR) has already been legislated, we are concerned that the designation of particular sectors seems to be a foregone conclusion regardless of regulatory and business costs being formally assessed and estimated. **There is a danger that the forced rollout of the CDR will become a solution looking for a problem.**

Any market intervention by government in a sector of the economy which is often already highly regulated must answer the questions, “to what benefit” and “to what end”? The rationale for proceeding with one sector per year must be backed up with a clear rationale; what is the basis for the government’s understanding that this is the appropriate timeframe and approach? Certainly in roundtables with the Department of Treasury CDR team, officials are seeking input from industry for the use cases and advice on which sector of the economy should they target next. The AIIA would content that government should only intervene in the market when a clear failure, and resultant benefit, has been identified.

Although consumer benefit and innovation has been the theme of the discussion papers provided by government, there has been no formal comparison of consumer benefits to the industry costs borne by industry – much of which will, it must be considered, eventually be borne by the consumer downstream. Further, while the Discussion Paper contends that *“as more data becomes available, the opportunities for businesses that can turn data into time saving digital solutions increases”²* but this projection is unrealised and unarticulated.

¹ Page 17, Discussion Paper, Strategic Assessment for the CDR

² Page 17, Discussion Paper, Strategic Assessment for the CDR

We also note that the level of community awareness of the CDR is low and industry understanding of the functioning and nature of the CDR must be advanced. The CDR has been billed at times as a rescue mission for consumers' data, but it has also been characterised as a consumer-driven proposition. The involvement of third parties adds another layer of complexity.

Use cases

The AIIA would suggest that the *'build it and they will come'* approach whereby the government relies on industry to formulate use cases is problematic. The productivity and new-product generation benefits of the CDR are thoroughly theoretical. For a useful consultation the AIIA would suggest that government first provide a fulsome picture of the quantified benefits to industry and several potential use cases and then seek specific technical input from the relevant industries.

Industry will then be in a stronger position to explain to its members exactly how the CDR will be functioning in their respective sectors and what the benefits are to companies.

The AIIA strongly recommends that the Department of Treasury use an industry co-design approach to CDR expansion to new industries who possess the technical expertise sectoral domain knowledge required.

Telecommunications sector

Regarding the telecommunications sector specifically, customers do not face significant barriers to switching providers. No lock-in contracts, the porting of mobile numbers and a strong body of easily accessibly billing and usage information, generally incorporated into PDF bills sent directly to the customer on a monthly basis, mean that the ideal CDR objectives for this sector are largely already attained. The costs of implementing application programming interface (**API**) solutions are prohibitive for the many smaller providers in the telecommunications market, as compared to the players in the financial services sector, where it may be argued customers stand to gain more significant benefits in the application of the CDR.

Conclusion and recommendation

The AIIA is concerned by the approach of the Treasury and the Government in rolling out and expanding the CDR. Banking and energy were the first two sectors that have had the right applied and the benefits realisation is only just starting to be understood. The banking and energy sectors were obvious starting points for the CDR as they are oligopolies or in some markets monopolies and consumers have no choice by to interact with these sectors.

However, we do not support the stated intention of rolling out the CDR to the wider economy as a whole or a sector-by-sector approach without first understanding the realised benefits in the first two sectors and then undertaking a cost-benefit analysis.

We therefore propose that the CDR expansion, including to the telecommunications sector, is paused to wait for suitable data and research. Australia should be at the leading edge of policy and data reform but not the bleeding edge, which we are on this occasion.

If you have any questions about the content of this submission, please contact policy@aiaa.com.au.

Yours sincerely,



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Appendix A: Summary of Recommendations

1. That government adopt an **industry co-design approach to CDR expansion** to new industries who possess the technical expertise sectoral domain knowledge required
2. That government **institute a pause on the expansion of the CDR**, including to the telecommunications sector, until suitable data, research and cost-benefit analyses are available.
3. That government first **provide a fulsome picture of the quantified benefits to industry and several potential use cases** and then seek specific technical input from the relevant industries.
4. That government ensures identity document use-cases **align with the proposed operation of the DTA's Digital Identity framework**.
5. That government formulate a comprehensive **community-focused education plan** on the CDR, focused equally on reassurance, awareness, and information.
6. That government **provide to industry transparent information** in respect of how the scheme is currently being used by consumers.