Experian Australia Submission: Mandatory CCR

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**Draft Legislation for Mandatory CCR**

23 February 2018

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# Introduction

Experian welcomes the opportunity to be able to share feedback with the Australian Treasury (Treasury) relating to the release of draft legislation to support Mandatory Comprehensive Credit Reporting (CCR).

We agree with the overall approach of Treasury, and particularly with Treasury’s identification of the substantial consumer, business and market benefits of mandatory CCR reporting.

Experian is a strong advocate for industry transitioning to a comprehensive reporting environment in Australia, where credit providers share positive consumer data, not just negative. A comprehensive credit file provides a Credit Provider (CP) with a much clearer view of the consumer and enables CPs to benefit from seeing repayment history when assessing credit applications. We believe it is a system that will provide more Australians with better credit opportunities and enable CPs to make more responsible lending decisions.

CCR data will create improved data analytics for assessing credit eligibility, ability to pay, and potentially fraudulent credit applications. This will result in better loans being made and a better pricing of risk.  This will ensure a stable lending sector, which leads to more confidence by investors to make more loans.  The end state will be an environment with more competition and lower prices for consumers.

From our experience in the 18 other countries where we operate a positive credit bureau, we understand that this is a significant step for Australia’s credit reporting system – though there is still a way to go before we see a world class comprehensive reporting system implemented (comparable to other mature markets which includes additional data fields such as current balance, and extends into other credit sectors).  Industry wide engagement & governance, encompassing data exchange, security and consumer education, must be implemented for CCR regime to reach its full potential.

In this paper Experian has identified some areas of concern for Treasury to consider as our industry moves forward with operationalizing CCR.

# Reciprocity Model in the Draft Legislation

The Explanatory Memorandum speaks to competition, consistency, and removing fragmented data in the system. Experian’s interpretation of the draft legislation (particularly Division 2 and 133CV) is that it reads inconsistent with the above principles as well as the PRDE because organisations can now receive the CCR data of the Big 4 and avoid signing the PRDE.

Experian’s interpretation of the draft legislation is non-PRDE signatories can obtain data from the Big 4, which in effect creates a new reciprocity tier and removes the incentive to participate in the PRDE regime. Experian supports the PRDE as it drives consistency in data supply while also providing appropriate compliance, governance, and technical standards to support broad adoption of CCR. The CCR ecosystem will need to be able to accommodate reciprocity settings for PRDE signatories, non-PRDE signatories, and the new ‘Big 4’ reciprocity tier.

This sort of reciprocity regime is not one we’ve observed in the 18 markets where Experian operates credit bureaus and creates a challenging environment to have competition and consistency in the industry. This dynamic creates two challenges. The first is in relation to competition and the second is in relation to the operational and system challenges the new reciprocity regime creates.

Competition Impact: Without the expected industry adoption of the PRDE the opportunity exists for incumbent Credit Reporting Bodies (CRB) to continue with agreements which favour existing CRB relationships in particular sectors in which challenger CRB’s relationships are still developing. A regulatory outcome which favours incumbents will result in less innovation in data aggregation, analytics and technology development, and in turn lead to worse consumer outcomes.

Experian believes robust competition between CRB’s creates better outcomes for consumers. Positive data shared across a competitive field of credit reporting bodies who are competent at managing data, analyzing data and delivering data through superior technology, will result in better data analytics for companies who loan money, leading again to more competition and lower prices for consumers. Experian believes the legislation should be written in a way that suppresses entry by “fly-by-nights” who are not invested in the Australian economy but incentivises competition among current market providers.

Operational Impact: The addition of Division 2 of the draft legislation and its non-reciprocal nature makes reciprocity significantly more complex. This will affect scores, attributes, and decisions. Data explanations for consumers and to regulators are likely to be more complex. CRBs will have to design new complex data management and technical tools to support this new regime. In particular complex data quarantine systems and controls will need to be in place to support this additional reciprocity regime and these updates might put industry readiness within desired timeframes at risk.

The tables below shows Experian’s interpretation of the data sharing model today and then under the draft legislation. The arrows represent the direction of eligible data requests between CPs. \*Red arrows indicate which lines would not be present in current state

**Currrent State Proposed State\***

The next two tables show what this means in practice as regards to CRBs managing reciprocity and access for CPs under various reciprocity tiers:

Before Division 2: Already complex with signatory/non-signatory settings

|  |  |  |
| --- | --- | --- |
|  |  | Consume |
|  |   | Negative | CCLI | CCLI PRDE | RHI | RHI PRDE |
| Supply | Negative | Y |   |   |   |   |
| CCLI | Y | Y |   |   |   |
| CCLI PRDE | Y | Y | Y |   |   |
| RHI | Y | Y |   | Y |   |
| RHI PRDE | Y | Y | Y | Y | Y |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  | Where RHI is the payment status of an RHI record |  |

After Division 2 Implemented: Significantly more complex reciprocity model – with the highlighted boxes showing the non-reciprocal components of the data sharing environment:

|  |  |  |
| --- | --- | --- |
|  |  | Consume |
|  |   | Negative | CCLI | CCLI Div2 | CCLI PRDE | RHI | RHI Div2 | RHI PRDE |
| Supply | Negative | Y |   |   |   |   |   |   |
| CCLI | Y | Y | Y |   |   |   |   |
| CCLI PRDE | Y | Y | Y | Y |   |   |   |
| RHI | Y | Y |   |   | Y | Y |   |
| RHI PRDE | Y | Y | Y | Y | Y | Y | Y |

Experian is concerned about consumer education and empowerment in an increasingly complex data environment. We believe the lack of consistency in the proposed regime will leave consumers at a loss to understand why different banks are seeing different data to such a broad extent. This would happen to an extent with the PRDE – however, if it stood as was, just one of the Big 4 signing it would effectively mean the whole industry would have to sign it.

Other Matters

133CV mandates a 10-day data response process for CRBs which is different from today where industry typically have agreed response times for various parts of the data provision process as agreed between an individual CP and CRB. Experian suggest the 10 business days be capable of extension by agreement between the CP and the CRB and that the section is further amended so that the civil penalty offence does not apply to a failure by the CRB to provide the relevant credit information within the 10 business days or longer period if agreed.

133CN raises requirements as regards to contracts “in force on 2 November 2017”. Experian believes ARCA’s questions as regards to this provision are appropriate and align to our thinking:

* *does this lock eligible licensees in to contracts? It excludes any post-2 November 2017 from mandatory supply requirements.*
* *What happens in future if agreement between CRB and CP is changed?*
* *Is a future CRB prejudiced by inconsistent data supply compared to what is mandated to be provided to existing CRBs?*

Experian supports a competitive CRB environment and the provisions in 133CN shouldn’t be exclusionary to CRBs as new contracts are put in place over time.

*133CR* speaks to CP obligations in regards to initial bulk data provision and incorporates historic defaults as a part of the supply requirement. Experian does not anticipate many issues from this provision when considering the Big 4 but does have concern it may be significant in the broader context of industry transition to CCR. This provision, if extended to the wider market, might have the effect of preventing the adoption of multibureau data provision and consumption due to the complexity of historic default supply consistently across three CRBs.

133CV: Experian would like a provision that a statement should be provided by the CP attesting that the relevant thresholds have been reached and the CRB is entitled to rely on such a statement when making requested disclosures.

General: Experian is not clear as to the ability of non-PRDE signatories to participate in data sharing at the negative tier with PRDE signatories. Our interpretation is the legislation does not make allowance for data supply and consumption at the negative tier in line with the PRDE model that currently exists.

Future Vision and Conclusion

Experian supports broad expansion of data supply to CRBs to include whole of industry contribution and expansion to additional data such as balances as we see in many of our global markets. By expanding the depth and breadth of data shared with CRBs we will see full files which are more aligned to global best practice and also enable the creation of more thin files to support consumers who have a smaller credit footprint. We believe this will better empower consumers to get more competitive products and interest rates while decreasing the likelihood of defaulting.

Experian can offer through global experience and local market expertise, a consultative approach with all stakeholders to help operationalise CCR in the Australian market. We look forward to supporting industry and the Government with this body of work. For further information on this submission, please contact Poli.Konstantinidis@experian.com

About Experian

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