



SUBMISSION PAPER:

## **Submission to the Inquiry into Future Directions for the Consumer Data Right**

**May 2020**

*This Submission Paper was prepared by FinTech Australia working with and on behalf of its Members; over 300 FinTech Startups, VCs, Accelerators and Incubators across Australia.*



## About this Submission

This document was created by FinTech Australia in consultation with its Open Data Working Group, which consists of over 150 company representatives. In particular, the submission has been compiled with the support of our Working Group Co-leads:

- Rebecca Schot-Guppy, FinTech Australia
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This Submission has also been endorsed by the following FinTech Australia members:

- Audeamus Risk
- Archa
- Athena
- Banjo
- Basiq
- Biza.io
- Brighte
- CoinJar
- Credi
- Data Republic
- Equitise
- Finstro
- Frolo
- Get Capital
- illion Open Data Solutions
- Joust
- Link4
- Longevity App
- Meeco
- MoneyPlace
- Monova
- Moula
- Nudge
- OnDeck
- OnMarket
- Paypa Plane
- Prospa



- QuietGrowth
- RateSetter
- Reinventure
- Side Fund
- The Fold Legal
- TransferWise
- TrueLayer
- Up
- Volt
- Wisr
- Zip

## Submission Process

In developing this submission, our Open Data Working Group held a series of Member roundtables to discuss key issues relating to the Future Direction of the Consumer Data Right.

We also particularly acknowledge the support and contribution of K&L Gates to the topics explored in this submission.



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## Context: Consumer Data Right in Australia

FinTech Australia has been a consistent advocate for policy reform to drive the implementation of the Consumer Data Right (**CDR**) as it applies within the banking and financial services industry.

We have made numerous submissions to Federal Treasury, the Productivity Commission, Open Banking Inquiry, the Australian Competition and Consumer Commission (**ACCC**) and Data 61 on the need for a framework for the sharing of financial data and on the details of that framework.

Throughout this process, we have emphasised the need for a regime which is flexible enough to enable participation by a range of providers using a range of business models. We consider this will provide the greatest scope for innovative solutions to be developed for consumers.



## Future directions for the Consumer Data Right

FinTech Australia welcomes the opportunity to put forward its position on behalf of members in relation to the future directions for the Consumer Data Right.

Our responses to the matters raised in the Inquiry's March 2020 Issues Paper are set out below.

### A. Future roles and outcomes for the Consumer Data Right

FinTech Australia supports the aims of an expanded Consumer Data Right.

We strongly agree with the comment in the Issues Paper that hidden costs and uncertainty about how a consumer's information is being used can erode their trust and, as such, we support the creation of an expanded CDR which is transparent to consumers and empowers them with increased control of their information.

While our members primarily approach the CDR from the perspective of the banking and financial services industry, FinTech Australia considers that some of the most transformative opportunities will involve data being aggregated from across various sectors and sources. Early targets for expansion of the CDR include financial services more broadly (such as superannuation, investment products, insurance), as well as the telecommunications and energy sectors.

#### **Future roles and outcomes for the CDR**

We see broad opportunities for an expanded CDR, including the following.

- **CDR as a consent management framework**

Within the existing CDR, consent functions as a tool for getting access to the banking APIs. Our members see a much broader role for the CDR in relation to consent management. Today, the sharing of personal information is governed by Australia's privacy laws and data can flow in line with the purposes outlined in the privacy policy of the collecting entity. This can mean a consumer's data passes through the hands of multiple intermediaries and service providers, in circumstances where consumers have little visibility or control.



Our members see an opportunity for the CDR to address this, as a tool for consumers to manage how their information is shared and to whom. This, after all, is at the heart of what it means for consumers to have rights in their data and goes directly to address the consumer trust erosion described above. This would require the development of data standards for consent itself, so that consent data could be shared in a consistent way, alongside the consumer data to which it relates. This would enable uniform approaches to data usage and would enable consumers to use a range of tools to centrally manage their consents.

As a consent management framework, CDR could enable:

- consistent ways of collecting consent and representing that consent when information is shared. This would involve a protocol for describing consent in a standard way and systemised tools for sharing that information; and
- embedding consent within consumer data at the point of sharing. Currently, an entity receiving data needs to make separate enquiries (and maintain separate records) about the provenance of data and the networks of collection statements and consents which led to its collation. If consent data was embedded within the data itself, the data would tell its own consent story and data recipients could simply interrogate the data to understand how it could be used.

- **Write access for account management, payments initiation and beyond**

As discussed in more detail in Section E below, FinTech Australia supports the expansion of the CDR to permit "write" functionality, to enable consumers to act on the insights generated through the sharing of data and achieve the associated efficiencies.

- **Facilitating consumer confidence to engage in the digital economy**

While more consumers are now comfortable transacting in the digital economy, there remain pockets of the community which would be reluctant to transact online. An evolving CDR could provide such consumers with more confidence to engage in the digital economy, knowing that they remained in control of how their personal information is being used.

- **Improved model for attributing value to consumer data**

A more developed CDR would make the value of consumer data more transparent and would empower and enable consumers to control its flow. This would place consumers back into the value chain with respect to the sharing of their data. A consumer who understands the value of their data, and the tools to control that sharing, becomes an



active participant in the market for data, rather than a commodity. An empowered consumer will know when they are getting value for their data and when they are not and will therefore be able to make better decisions.

Our members see this as an opportunity for the birth of a domestic data economy, which would have the potential to compete internationally.

- **Identity verification**

The banking and financial services sector requires tools for verification of identity. Currently, through tailored AML Programs, bespoke technology solutions and a handful of aggregators, entities largely design their own ways of dealing with ID verification issues.

A broad CDR could enable standardised tools for ID verification, acting as an enabling technology for existing and emerging providers.

While the challenges of ID verification are perhaps most apparent within banking and financial services, they exist in a range of other sectors and any solutions could operate across industry barriers.

- **Increased competition**

Price discovery is a feature, albeit as yet under-exploited, of the existing CDR regime. If product switching were to be included in an expanded CDR (as discussed below), consumers would be able to more readily act on price information.

Empowered, well informed consumers can make better decisions. This will almost inevitably lead to better and cheaper products.

- **Personalisation**

Secure, permissioned flow of data would create opportunities for greater personalisation of services across the industries to which the CDR applies.

## **Requirements to enable these roles and outcomes**

- **Broad and permissive**





The initial implementation of the CDR has been narrowly focussed on APIs for the sharing of a subset of banking data. In some areas, the open banking implementation has been heavily prescriptive and in others less "opinionated" than would be helpful.

FinTech Australia considers that the CDR should be broadly focussed and facilitate a variety of business models. It should also facilitate industry segments developing their own standards which can be formalised and adopted. This would ensure that the standards which are developed will be well adapted for that industry segment and will not be left dormant.

In this way, our members see the greatest potential for CDR as being a "baseline" of standards and infrastructure, from which expansions and innovations can be developed voluntarily and, where appropriate, formally incorporated into the CDR.

- **Consumer education**

FinTech Australia is concerned about the current state of awareness and understanding of the CDR by consumers. We see considerable benefits for consumers from a security, service quality and price perspective. However, consumers and consumer groups appear to be reluctant to embrace these benefits.

A broad education campaign may have merit, but would also need to be coupled with active participation and engagement by the existing data holders. These organisations have the capacity to greatly influence their customer base in favour of, or against, any new services built upon the CDR. Any education campaign should be targeted at a small number of extant concrete use cases.

The education material should be easily accessible to the consumer anytime. So, an user-friendly, crisp and compact website should be maintained. This website can be similar to Moneysmart ([moneysmart.gov.au](http://moneysmart.gov.au)) website.

## B. International context

While international cooperation and interoperability are useful aims, FinTech Australia members caution against prioritising this at the expense of the development of the best CDR for Australian consumers.

Our members consider the best approach would be to take the learnings from what has been done, and should have been done, in other jurisdictions, rather than trying to align our regime to any particular existing standard. For example, there is much more to be gained by looking at



and learning from the roll out of the PSD2 (including its successes and failures), rather than trying to replicate it.

## C. Switching between products

FinTech Australia strongly supports a CDR which facilitates switching between products in the industries which are within scope.

Competition will only be enhanced through the CDR if, in addition to better access to comparison information, the consumer data right also reduces the existing friction for consumers trying to switch providers. Within the banking and financial services sector, significant barriers to switching exist, such that consumers often stay in inferior or more expensive products, even when they know the products are inferior. We expect the same is true in other segments also.

We consider this could be one of the most influential aspects of an expanded CDR, as it enables consumers to act on the information they receive.

## D. Read access

Our members support the expansion of existing read functionality of the CDR.

In relation to the matters raised in the Issues Paper, FinTech Australia:

- supports the development of a standardised consent taxonomy, to improve consumer understanding and interoperability. There may however be a need for tailoring of the terminology used across different sectors to ensure the consents are consistent with terminology already in use in those sectors;
- sees benefit in a framework which facilitates a range of approaches to consent management, from dealing directly with the relevant data holder and recipient to a more centralised consent dashboard approach;
- supports the promotion of voluntary data sets (for the reasons described above). We would also support processes for converting those data sets into mandatory standard where they have sufficient industry support;
- supports a tiered accreditation model. An expanded CDR could involve a range of different levels of access (read / write), different volumes of information (consolidated broad dataset or more limited single purpose information) and different participant roles.



A tiered accreditation model is needed to ensure that those who present the most risk face the most scrutiny and those who present only a limited risk (such as those consuming but not storing limited CDR data) face a more limited hurdle to participation.

FinTech Australia has previously made submissions to Treasury and others supporting the evolution of the CDR to specifically provide for access and accreditation by intermediaries. We repeat those comments and have included our previous submission on these issues as an Appendix.

The CDR is often viewed from the lens of the forced sharing of data by entities who were prefer to keep that information to themselves. While this is undoubtedly part of its function, the CDR could also be an enabler of sharing of data between participants who are sharing the information willingly, for mutual benefit. FinTech Australia members consider that these use cases are likely to be more prevalent. Any expansion of the CDR should not ignore these use cases.

## E. Write access

We refer to our comments above in relation to switching.

Outside this context, we also support write access to permit, within the banking sector, payment initiation. Payment initiation, however, obviously brings with it a need for additional protections and safeguards. A clear audit trail, appropriate accreditation and consent will be key, as will consumer awareness and understanding.

The focus for CDR should be on aspects of payment initiation which currently create unnecessary friction, rather than targeting all payment use cases. For example, updating direct debits and facilitating small repeat transactions could be beneficial for initial use cases. Write access could also facilitate smart deployment of money and payment methods, to ensure consumers are using the most cost effective products at the right times (eg moving money to highest interest bearing accounts or "smart" card acquiring which selects the most optimal payment channel at point of sale). Write access could also bring standardisation to emerging "closed-loop" payment networks.

Another point of friction that needs to be addressed is user experience. In practice, open banking works only when both sides of the transaction make a good quality user experience available. One of our members noted that their data shows that in the UK currently, only 40% of first time payments succeed. These numbers include high drop off rates, due to poor authentication user experience after redirection. There isn't uniform distribution across open banking participants, making it clear which participant has particularly poor UX. Poor user



experience also drives repeated customer contacts for this particular payment method. About one in ten payments lead to a contact to customer support. While the success rate for first time users is far too low, we do see that once a user has made an initial payment, subsequent attempts are on average around 85% successful - most likely because they are familiar with the interface. The same member noted their data demonstrated that payment authorisation is the biggest point of failure of open banking in practice right now. Some major banks have created low-quality user experience when the customer tries to verify a payment made via open banking. Data demonstrated that most of these transactions failed, making it unlikely that those customers will use that service again.

Strong customer authentication (“**SCA**”) also remains the biggest source of friction when customers attempt to authorise payments. For example, when one UK bank introduced SCA to their authorisation flow, the payment success rate dropped from around 75% to approximately 55-60%. Another global bank uses a separate SCA approach for open banking compared to their regular online banking and customers have themselves repeatedly raised this as a source of confusion. This bank’s success rate is noticeably lower than other banks, being around 35% for new customers compared to approximately 55% for another bank.

This issue is magnified through a disproportionate application of 2-factor authentication (“**2FA**”). Anecdotally, one member noted that they have seen incredibly low-value payments triggering 2FA in the flow, where a typical bank transfer would not. This creates unnecessary friction for users, pushing users back toward simpler and more expensive methods (i.e. card payments).

Additionally, there must be sufficient data points included in the API to maintain proper functioning of the open banking systems and avoid a degradation of service. For example, in the UK, one large global bank only supplies the amount and date for a payment. This means Third Party Providers are missing data such as the sender name, reference, a unique ID, and credit advice information on SWIFT payments.

Additionally, the uptime of APIs is also crucial. We would expect at least parity with the online banking interface which isn’t currently happening. For someone to build a business on, we would need 99.95% uptime.

We acknowledge that Mandated Payment Services via the NPPA will create a new payer-permission-driven environment for direct debits (and other payments) and, in doing so, leverage many of the CDR driven-initiatives - including customer UX and explicit consent capture. This will be a positive step towards opening access to 'in-bank' permission for payment initiation to third parties but may not encompass all use cases that an appropriate write-access regime will address. We advocate for a flexible write-access permission set that works alongside other initiatives such as the NPPA's MPS.



## F. Linkages and interoperability with existing frameworks and infrastructure

FinTech Australia members support a flexible, technology-agnostic CDR.

In respect of the banking sector, current payment rails are confined to a small number of participants. Our members would like to see access expanded to enable more diverse payment models.

## G. Leveraging existing CDR infrastructure

Our members consider that an expanded CDR may well have different infrastructure needs than the existing open banking implementation. It is therefore likely that considerable change would need to occur before existing infrastructure, such as the existing Data Standards Body, could be used more broadly.

We have previously made submissions about changes needed to the accreditation process to facilitate intermediaries. Further tiering would need to occur in an expanded CDR. As such, we consider that substantial changes would need to occur to the existing accreditation regime to make it suitable.

## H. Consumer protection

The focus of consumer protection to date has been on privacy issues. This emphasis has led to the creation of a privacy regime specific to the Consumer Data Right. It would instead be preferable to address privacy issues through changes, if necessary, to the general privacy laws, rather than expanding the Consumer Data Right specific privacy regime.

If modernisation of the general privacy laws is required, this should occur across the board rather than focussing on data which happens to have been obtained through the Consumer Data Right. This shift in approach becomes even more important as the scope of the Consumer Data Right expands.

Under the open banking implementation, participants will often be required to develop a CDR privacy policy and a general privacy policy, with different processes sitting behind each one. A bank and a data recipient may exchange data through existing channels and through CDR. One method of sharing that data will be subject to the CDR specific privacy regime and one will not. This leads to inherent inefficiencies and uncertainties and does not reflect how consumers conceive of the sharing of their data. Where necessary, we consider that any CDR specific



privacy issues could be dealt with by additions to, and expansions of, the existing Australian Privacy Principles, rather than an independent regime. It may be that reforms to the existing general privacy regime are needed to facilitate this.

When viewed as a platform for consent management, the CDR could be used to give consumers greater, and more granular, control over the way their data is used and shared. This exists outside any specific regime for sharing data.

Outside of privacy considerations, any expansion to the CDR would need to have regard to protecting the interests of consumers. We understand some consumer groups have raised concerns about aspects of the open banking regime and the potential impact on, for example, access to credit for vulnerable customers. We understand these concerns and agree that the needs of vulnerable customers need to be protected. However, in our view, these are not issues to be solved within for the CDR specifically. Increasing access to data to enable, to continue the example, more informed lending decisions should, in a functioning market, ultimately lead to a better alignment between lender and borrower - a better allocation of risk, more appropriately priced. We suggest that any unintended consequences of that increased access to data should be addressed through technology independent consumer protection measures.

FinTech Australia members are of the view that, while the CDR regime should regulate how data flows through the system, it would be preferable to regulate services built on top of the CDR under general laws which apply independently of the underlying technology. Such a principles based approach has been the default approach in Australian legislation for many years and has ensured that emerging technologies do not generally require tailored legislative treatment.



## Conclusion

FinTech Australia thanks the Inquiry for the opportunity to provide inputs and recommendations on the future development of the Consumer Data Right.



## About FinTech Australia

FinTech Australia is the peak industry body for the Australian fintech Industry, representing over 300 fintech Startups, Hubs, Accelerators and Venture Capital Funds across the nation.

Our vision is to make Australia one of the world's leading markets for fintech innovation and investment. This submission has been compiled by FinTech Australia and its members in an effort to drive cultural, policy and regulatory change toward realising this vision.

FinTech Australia would like to recognise the support of our Policy Partners, including K&L Gates who provide guidance and advice to the association and its members in the development of our CDR submissions.