



19 May 2020

Secretariat
Inquiry into Future Directions for the Consumer Data Right
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: data@treasury.gov.au

Dear Sir/Madam,

In response to the Treasury's *Inquiry into the Future Direction of the Consumer Data Right* ("the CDR"), Visa, Inc. ("Visa") is pleased to provide perspectives on the next stage of Australia's data-sharing economic reform and development. Visa shares Treasury's goals of enhancing and leveraging the CDR for the benefit of Australian citizens and businesses, both domestically and internationally. We welcome Treasury's consideration of the views of all stakeholders in order to ensure an open, transparent, and inclusive policy development process that will result in broad benefits for all participants in the payments ecosystem, including consumers, developers, merchants and payment networks.

Globally, the financial services industry is transforming rapidly, largely driven by the emergence of new technologies and fintech solutions, as well as ever-increasing consumer demands for innovative and agile products and services as well as simplicity, convenience, and value. Consumers are also increasingly seeking greater transparency and choice around the use of their data. As a result, the ways in which consumers interact with both their financial institutions and their data are changing. Australia reflects this global trend, as evidenced by a dynamic and emerging fintech environment. Visa has a 60-year track record of leading payments innovations and is committed to helping create the next generation of financial services in Australia and globally. We strive to put an emphasis on openness, collaboration, and engagement, and believe that innovation can - and will - come from anyone, anywhere. These core values reflect Visa's 60-year journey during which we have advanced from safely and securely connecting buyers and sellers to connecting fintech developers and financial services firms.

Visa appreciates continued opportunities to collaborate with Treasury and other Australian government bodies to fulfill the objectives of the CDR and Open Banking. By way of background, Visa previously submitted comments to Treasury's Review of Open Banking in Australia in 2018¹ and to the Australia Competition and Consumer Commission's ("ACCC") industry consultation on facilitating participation of third-party service providers under the CDR regime earlier this year.² We share our observations below for Treasury's current inquiry into

¹ In March 2018, Visa was pleased to submit a response to Treasury's Review into Open Banking in Australia [available online] <https://treasury.gov.au/sites/default/files/2019-03/T282002-Visa.pdf>

² In February 2020, Visa submitted a position paper in response to the Australian Competition and Consumer Commission's industry consultation request on facilitating participation of third-party service providers under the CDR regime [available online] <https://www.accc.gov.au/system/files/CDR%20Rules%20-%20intermediaries%20consultation%20submission%20-%20Visa.pdf>

the future of the CDR. It is worth noting that while our observations are focused on banking, they may also serve to inform data-sharing best practices across other sectors in Australia and support Treasury's holistic examination of the CDR.

GUIDING PRINCIPLES

Based on Visa's global experience, we believe the next stage of the CDR, Open Banking, and data-sharing should be guided by the following principles and best practices:

1. A flexible and principles-based regulatory framework

Visa believes that a successful regulatory framework is principles-based and sufficiently flexible to encourage innovation and allow different technologies and business models to emerge across all levels of the value chain. A flexible regulatory framework can boost the broad adoption of the CDR and more easily adapt to future innovation.

2. Inclusion of diverse ecosystem participants

A flexible framework that encourages participation of industry members across all levels – such as banks, fintechs, and other emerging players – results in greater innovation, consumer choice, and resiliency of data-sharing across multiple sectors.

3. Interoperable, consumer-focused, Application Program Interfaces

Broad representation from industry in the financial ecosystem is also more likely to result in the development of interoperable Application Program Interfaces ("APIs") that work universally for all Open Banking and data-sharing participants and across multiple use cases with an appropriate focus on the consumer experience. Interoperable and straightforward consumer interfaces will help drive greater adoption of the CDR.

4. Intermediaries as drivers of value and efficiency

Any CDR framework needs to be flexible enough to allow competition to thrive at all levels of the value chain. In a consumer-focused data-sharing financial ecosystem, Visa believes there is a significant and essential role for intermediaries that can contribute additional value and economic efficiency for all ecosystem participants. For instance, intermediaries, such as Visa, that are trusted leaders in the technology space can also leverage their experience in cybersecurity, encryption technology, and fraud and risk monitoring to drive participant and consumer trust in Australia's data-sharing ecosystem. A secure environment for enabling data availability – through encryption or other means – makes it easier for developers to create services that consumers can trust across multiple accounts. For consumers, this environment creates a sense of security in data-sharing and facilitates data-sharing to create value for consumers without having to establish multiple connections.

5. Robust privacy protections and consumer empowerment to manage data sharing

Visa believes in empowering consumers with tools to easily access, manage and use their financial information. Earning public trust to handle and use important financial data necessitates a commitment to privacy, security and transparency. For consent-based regimes like the CDR, it is imperative that consumers understand what they are consenting to when they share their data. When presented with an opportunity to enable financial

services or access information which requires consumers to share their personal data, consumers should be provided with clear information as to what data they are sharing; who may use the data they share; for what purposes and over what periods the data will be used; and, clear, simple, and consistent information about their choices and how to manage their data-sharing permissions. To this end, Visa supports the empowerment of consumer data-sharing through the requirement that consumers be provided information to make informed consent decisions based on transparency on how that data is used, assurances that it will be used responsibly, and rights to maintain or withdraw consent.

6. Data-sharing as a catalyst for financial inclusion and information equality

Visa is committed to helping drive financial inclusion across Australia and believes that Open Banking presents a unique opportunity to create and deliver innovative products and services to underbanked individuals and micro- and small businesses. A larger ecosystem of financial technologies and participants – powered by the broader use of permissioned data – can help individuals and businesses unlock economic opportunities by increasing their means of accessing financial services in addition to traditional banking services. In the long term, Open Banking can serve as a key component of sustainable economic growth in Australia.

7. Data-sharing as a catalyst for marketplace innovation

Data-sharing can be an important tool to support innovation and economic growth. Common data-sharing protocols and consent standards will reduce the cost and accelerate the growth of data-sharing – with marketplace benefits for all parties.

THE FUTURE OF THE CONSUMER DATA RIGHT

Open Banking and data-sharing have the potential to increase competition and innovation and improve how consumers engage with financial services. For example, by providing a role for third parties, Open Banking can enable consumers to access new and innovative financial services. It also gives consumers greater choice in controlling their money and securely sharing their own financial data, which benefits consumers as well as the payments ecosystem at large. Furthermore, Open Banking can create opportunities for financial institutions – as well as start-ups, fintechs, and merchants – to offer more personalised services to consumers and spur competition and innovation in payments. Beyond Open Banking, the enablement of consent-based data-sharing has the potential to both create significant value and convenience for consumers as well as support economic growth.

In addition to the overarching guiding principles outlined above, we have detailed below some specific points for Treasury's consideration that we believe will help ensure a successful expansion of the CDR in Australia.

1. A flexible framework

In this rapidly shifting environment, and for the reasons outlined above, the future of the CDR should be principles-based and technology neutral. This approach will enable the CDR to keep pace with dynamic sectors and adapt to future innovation. The regime should encourage innovation, enhance consumer convenience, and empower consumers to manage their data, while protecting consumer privacy and data security.

Additionally, broad representation from industry at the outset is also more likely to produce APIs that are interoperable and work universally for all CDR participants and across

multiple use cases, thereby resulting in greater cohesion and expanding the number of players in the ecosystem. Over time, more efficient, advanced, and secure solutions will emerge, and we support a flexible regulatory framework that can catalyse, and adapt to, these new solutions.

Visa has observed that an overly prescriptive regulatory approach in some countries hinders adoption of Open Banking, as it is unlikely to support the same variety and speed of innovation as a more flexible approach. For example, while regulation played a crucial role in kick-starting Open Banking in Europe, the prescriptive nature of the regulation (e.g., no-cost APIs and strict 90-day authentication requirements) has led to a slower adoption of services. Conversely, Hong Kong, Japan, Singapore, and South Korea, among other jurisdictions, have opted for a flexible approach to Open Banking, with industry driving the exposure of high-quality APIs in response to consumer demand.

2. Expanding into other sectors and services

Visa supports a more expansive CDR regime that brings together different parts of Australia's digital economy through data-sharing. There are many benefits and opportunities in bringing more and diverse data sets into scope. Doing so can broaden access to more financial products and services associated with superannuation, investments, and insurance, as well as utilities such as telecoms, water, and energy. As noted above, we believe that the evolution of Australia's CDR regime should be largely industry-driven as well as economically sustainable, with an ability for incumbents to derive value from the APIs that they develop.

The future possibilities of a CDR data-sharing economy are endless. It would enable services to display information on a consumer's financial products (like a financial marketplace), which could improve consumers' understanding of their financial profile and help them better manage their finances. With a consumer's consent, services could also generate targeted consumer recommendations and/or automatically switch to other products on a consumer's behalf. These services would require extension of the CDR to financial services products, and adoption of data-sharing at the same time across a number of sectors rather than through a phased approach.

3. Clarifications

In principle, Visa supports a framework that introduces standardisation. We believe that common technical standards governing issues like security are important to enable a frictionless consumer experience and interoperable systems. However, we strongly believe that technical standards should be driven by industry to ensure that those with the technical skills and market experience develop a blueprint that caters to a variety of use cases and reflects market demand. We caution against standardisation that is too granular, as it may have the unintended consequence of stifling innovation.

'Trust between participants' is essential to encourage customer confidence in the CDR. Again, we caution against overly prescriptive rules in this area. We believe there is a role for Open Banking and data-sharing regulation in ensuring that there is a primary focus on data security and consumer empowerment. However, we believe this can be achieved through a principles- and outcomes-based regulatory framework that allows competition to thrive at all levels of the value chain. Overly prescriptive rules may impede the emergence of new technologies to address these issues and constrain the ability of the ecosystem to ensure that the right commercial incentives are in place to enable sufficient investment and innovation in data security.

EXPANSION OF THE CURRENT FUNCTIONALITY OF READ ACCESS

As discussed above, Visa agrees that the paramount focus of any data-sharing should be on security, privacy, data protection, and consumer empowerment to manage their data. The privacy safeguards included in the Competition and Consumer (CDR) Rules 2020 and related guidelines promulgated by the Office of the Australian Information Commissioner will contribute to generating consumer confidence, encouraging industry players – both existing and emerging – to engage in data-sharing, and providing for informed consumer decision-making regarding how their data is used and stored. In evaluating the best approach for an expanded functionality of CDR read access, we outline some additional considerations below.

First, when shaping the future role of the CDR in the banking sector, careful consideration should be given to the alignment between robust security measures and a seamless and easily navigable consumer experience. For example, it would be beneficial to provide consumers with the option of clearly and easily providing and withdrawing consent. The CDR would also benefit from transparency regarding the parameters of data access (e.g., the type of data to be accessed, who will access it, for what purpose, and for what duration of time). Clear and straightforward consent processes are critical to achieving the goal of empowering consumers.

Further, expanding the functionality of read access should take a flexible approach to accreditation as well as data-sharing between accredited and non-accredited third parties. For example, the CDR should enable an accreditation model that allows for different tiers of accreditation that reflect, and are proportionate to, the roles that different providers perform. Additionally, the CDR should permit the possibility of data-sharing by an accredited person to a non-accredited third party. This will, for example, encourage the adoption of Open Banking and data-sharing at large by lowering the entry barriers for fintechs and emerging players that can offer innovative services.

DEVELOPING AND IMPLEMENTING WRITE ACCESS

Developing and implementing write access in the CDR regime can offer additional ways of generating value for consumers and the ecosystem at large. Write access – including payment initiation services in the banking sector – must be carefully developed, with a strong focus on security across the ecosystem.

An important component to write access – particularly with respect to payment initiation services – is an accreditation or authorisation process that is not overly burdensome. For example, the Australian Financial Services licence and Open Banking accreditation processes should align in order to minimise duplicative requirements that may result in unnecessary delays and costs, thereby disincentivising entry and, consequently, adoption.

CONSUMER SUPPORT FOR EXPANDED DATA SHARING

In 2019, Visa conducted market research in Australia regarding consumer data-sharing preferences and behaviours. Visa's research spotlights a real opportunity for increased consumer value and convenience through the promotion and development of a strong, consumer consent-oriented data-sharing ecosystem. Key Visa research findings with direct applicability to the future of the CDR include³:

³ The consumer research findings are drawn from the internal Visa report, Global Consumer Research Findings (September 2019). The research sample size was 800 consumers.

- Australian consumers understand the role of data
 - 90% of Australian consumers report a basic understanding of how information is used in conducting digital activities
 - 30% of Australian consumers view data-sharing as necessary in a digital world
 - Only 17% of Australian consumers report being “not comfortable” sharing data
- Australian consumers have clear views data-sharing:
 - 57% of Australian consumers view a strong consent process as important to increasing consumer confidence in data-sharing
 - 51% of Australian consumers view the ability to correct/revoke the data they share as important
 - 46% of Australian consumers view clear data privacy policies that are easy to find and understand as important
- Australian consumers see meaningful benefits from data-sharing
 - Preventing fraud (53%), direct compensation (30%), and personalised offers (30%) are viewed by Australian consumers as the top 3 reasons for data-sharing
 - 35% of Australian consumers view contributing their data to social good initiatives as an important benefit from stronger data-sharing

To fulfill the potential value and convenience that consumers see in data-sharing, regulators should support a market-driven approach to data-sharing and collaboration. Informed consumer consent and data security will be the critical factors in building and maintaining consumer confidence in data-sharing. Visa supports regulations that support and promote the development of a market-driven data-sharing ecosystem.

LINKAGES AND INTEROPERABILITY WITH EXISTING FRAMEWORKS AND STRUCTURES

Visa believes that as Australia considers the next stage of the CDR, interoperability will be a key issue that can help leverage it domestically and internationally. Domestically, for example, interoperable standards can create a level playing field across industry participants, enabling a frictionless consumer experience today and supporting scalability in the future. As discussed above, these technical and consent standards should be industry-driven to ensure that players possessing the right technical skills and market experience develop a blueprint that reflects market demand while supporting interoperability across a variety of use cases. Consistent, interoperable standards will also help incentivise the creation of new and innovative products and services, thereby supporting Treasury’s goal to expand and grow the data-sharing financial ecosystem.

Further, in the spirit of encouraging linkages and interoperability with existing frameworks, we note that there is some uncertainty in Europe around the ways in which consent requirements under the General Data Protection Regulation (“GDPR”) and the Open Banking regime interact and can be satisfied. “Consent” and “explicit consent” are specific concepts under data protection law and cannot be read across into the requirements under payments services regulation. This results in a payment service provider putting in place appropriate procedures to ensure compliance with payment services regulation as well as data protection legislation. We believe that a consumer of a financial product or service should benefit from the similar types of consumer protections irrespective of whether it is offered by a federally regulated financial institution, a fintech, or any other entity. We encourage Treasury to seek synergies with existing domestic frameworks, as the type of entity providing a service should have no implications on consumer protections for Australians.

On an international level, we encourage Australia to continue to lead on the issue of cross-border data flows as noted, for example, in the recent Digital Economy Partnership Agreement with Singapore. As a global network, Visa views the free flow of data as particularly important through the lens of security. In fact, security features are strongest when data flows can move freely across borders and this is especially crucial as more countries adopt Open Banking policies.

Visa appreciates the opportunity to provide our perspectives on Treasury's *Inquiry into the Future Direction of the Consumer Data Right* and looks forward to supporting the Australian Government as it transitions to a data-sharing economy. We are available to provide further details on any of the issues raised in this paper as is necessary and helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Potter', written in a cursive style.

Julian Potter
Group Country Manager
Australia, New Zealand & South Pacific

APPENDIX

About Visa

For 60 years, Visa has brought together the ideas, innovation, data, and partners required to make the digital transformation of society sustainable and inclusive. We connect the world through the most innovative, reliable and secure payment network – enabling individuals, businesses and economies to thrive. Visa is not a bank and does not issue cards, extend credit or set rates and fees for account holders on Visa products. Rather, our advanced transaction-processing global network facilitates authorisation, clearing, and settlement of payment transactions. In 2019, Visa’s global network managed USD \$8.8 trillion in payments volume and over 138 billion payment transactions. The security of those transactions is a primary focus for Visa. In 2019, we also leveraged the latest technology and vast global data sets to prevent \$25 billion in fraud.

In 2016, Visa launched the Visa Developer Platform (“VDP”), transforming our proprietary technology network, VisaNet, into an open commerce platform. VDP provides simplified access to many of Visa’s most in-demand products and services through an open network of Visa APIs, allowing Visa partners to transform great ideas into new digital commerce experiences. VDP offers over 125 APIs, enabling access to some of the most popular Visa capabilities. This provides developers with a sandbox testing environment for the development of new digital payments and commerce solutions.

In Australia, Visa has a physical presence in Sydney and Melbourne. Together with our Australian financial institution, fintech, and merchant clients, as well as our technology partners, we are committed to building a future of commerce that fosters Australian economic growth and innovation. In 2019, Visa partnered with Startup Muster to gain insight into Australia’s fast-growing fintech industry and how best to support startup founders. Enabling this type of entrepreneurship and innovation, which benefits Australian consumers, merchants and the economy, is a core focus for our business in Australia.

With clear momentum in innovation for consumers, we are also working to expand acceptance across the payments ecosystem, ensuring that every Australian can both pay and be paid in a convenient and secure way. One way we have furthered these efforts is by partnering with Quest Payment Systems and The Big Issue, the independent magazine sold by homeless, marginalised and disadvantaged people, to enable Big Issue vendors to accept digital payments. We have also launched #WhereYouShopMatters, an initiative focused on supporting Australian small businesses through education and promotion.