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Australian Government Treasury

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Consumer Data Rights Rules amendments (version3)

Dear CDR Team,

Thank you for the opportunity to comment on the Consumer Data Rights Rules amendments (version3) and your consideration of our thoughts past the deadlines set. Our members brought this consultation to our attention only days before the deadline. With COVID-19 lockdowns consuming much of COSBOA's time, energy and attention, our ability to resource an in-depth analysis of comprehensive legislation is limited. We acknowledge the significant body of work that has been conducted since 2017 and the most recent work to create changes that recognise some of the difficulties this legislation creates for small businesses.

Given the circumstances, we request further time and consultation with your team to offer the small business perspective. In an effort to progress we would make the following initial points;

Small businesses can be very small, one to four people in a business account for a very large proportion of all small businesses.



Statistics from the Australian Small Business and Family Enterprise Ombudsman 2021.

Many of these small businesses are very similar to individual consumers in their vulnerabilities. Yet they must comply with the same laws that govern big businesses. They rely on agile software solutions to do this, and we've included examples attached to this letter. There are over 1000 individual software companies in Australia providing numerous bespoke business software solutions. Their efficiency is dependent on the smooth transfer of critical business data. Careful consideration is needed where the CDR rules intersect with these relationships.

Most of these software providers are small businesses themselves that will not be able to comply with the complexity of the CDR rules. We have worked with our members, including the Digital Solution Providers Australia and New Zealand (DSPANZ), to understand the CDR rules. We understand they have also made submissions raising the details of the difficulties being created.

There appears to COSBOA a tension between the right of consumers to protect their data, and the need of small businesses to share their data. This tension must be resolved in a practical way. What can be lost in the conversation is the consideration that small businesses are also consumers of data and should be considered as having the same rights to utilise and share their data to improve aspects of their business such as business efficiency. Business people are not captured by the privacy rules in the same ways as individuals. This allows businesses to function and fulfil a plethora of obligations, most of which are driven by Government regulatory requirements.

The removal, limitation, or regulation of the data sharing, that has been utilised for many years now in the small business sector will have consequences that we don't believe are well understood by the Department, at this point of the policy development. Our reading of the proposed rules is they are complex and far reaching. Advice from our members is that although the intentions of the legislation is sound, overly complex implementation and the impacts on both the small business software companies and their clients, needs further consideration.

The place of trusted advisors, the regulation and definition of who they are and what they do in these amendments (version 3), do not reflect the current, real life small business experience. Through software small business people have for years successfully shared their own financial data with advisors which they trust because they choose to do so to improve their business. This has occurred through a robust system of compliance checks for advisors as professionals; engagement letters, software protections and relationships built over time. They need to retain that capability of sharing data for efficiencies and to meet government regulations and on occasion those they reach out to can change. For example, the recent JobKeeper payments relied on the use of single touch payroll and businesses submitting tax information according on time. Those that had failed were excluded from the subsidies. Many small businesses use software to meet their record keeping obligations. In cases of urgency, it is not only financial advisors, but others who assist the small business owner and it must be up to them to determine who they can trust with this information.

Small Business people have for many years managed who accesses their data, what level of access is granted and for how long, in partnership with DSP's. We're curious to know what problem the CDR rules are solving for small business people?

We would welcome further consultation in detail, as time allows and as required to meet your deadlines as this important work is developed.

Yours sincerely,



Alexi Boyd
Interim Chief Executive Officer

Council of Small Business Organisations Australia (COSBOA)

ABOUT COSBOA The Council of Small Business Organisations Australia (COSBOA) is the national peak body representing the interests of small business. Collectively, COSBOA's members represent an estimated 1.3 million of the 2.5 million small and family businesses that operate in Australia.

COSBOA is the big voice for small businesses people since 1977. As a collaboration of peak organisations, we promote small business with independent, tenacious advocacy to powerful decision-

makers to get a better deal for millions of small businesses people and a better economy for all Australian people.

Small and medium sized enterprises (SMEs) are major contributors to the Australian economy. SMEs employ 68% of Australia's workforce. In GDP terms SMEs together contribute 56% of value added. For this reason, small and medium businesses will be the key partners with Government in re-building the Australian economy.

Examples of Small Business sharing their own data.

There are numerous examples of sectors of the small business economy who rely heavily on the visibility of bank feed data in their financial software not only for reconciling in real time but also for secondary software which is crucial to running their business.

For example, a naturopath owns a small business clinic that employs 10 people and sees dozens of clients each day. They utilise Cliniko for their practice management software; for customer relationships & queries, marketing, booking appointments, sending invoices, closing invoices etc. The business owner relies heavily on the software and literally could not function if the system suddenly became unavailable. Cliniko has a proportion of its functionality linked to the bank feed data in the small business owner's primary financial software – Xero. Xero collects the bank feed and Cliniko has open API visibility over this bank feed data for closing invoices as well as other utilities. A proportion of the software which the small business owner utilises to run their business is rendered useless and would mean, for a start, double handling of invoices.

There are numerous examples where switching off bank feeds in the primary accounting platform would mean limiting the functionality of the secondary software. In the case of Dext (formally known as ReceiptBank) which has over 55,000 small business users in APAC (the vast majority in Australia) where it relies on visibility of the bank feed data for its core functionality of closing receipts. NextMinute, an emerging project management software platform designed for tradies has 150 clients for whom the platform on which they run their business would be useless.

These are just three examples; there are hundreds of software platforms which small businesses use for client account management, project management and running many facets of their business. Restricting the access of secondary software in any way to this data would mean a huge backwards step in terms of digitisation and efficiency for these businesses.