

1 September 2021

Strategic Assessment Team
Consumer Data Right Division
The Treasury

Via email: data@treasury.gov.au

To whom it may concern

**SUBMISSION TO THE TREASURY CONSULTATION OF THE
CONSUMER DATA RIGHT STRATEGIC ASSESSMENT**

The Australian Retailers Association (ARA) would like to thank the Treasury for the opportunity to provide a submission in response to the Consultation Paper published in August 2021.

The ARA is Australia's largest and oldest retail industry group and represents around 7,500 independent, national and international members. The ARA is the trusted voice for Australia's \$360 billion retail sector, which employs more than 1.2 million people.

The ARA agrees with the Consultation Paper in that consumers should be empowered to benefit from the data held about them and that, with their consent, the use of this data should be used to strengthen competition, market efficiency, innovation, and productivity.

We welcome the opportunity to contribute to the Treasury's strategic assessment and its potential application to the retail sector, to ensure that any proposed extension of the Consumer Data Right (CDR) provides benefits to Australian businesses and consumers, while achieving stated policy objectives.

Consumer data use in retail

The careful use of consumer data is widespread and growing in the retail sector, with many retailers utilising loyalty schemes which leverage consumer data to tailor a customised experience and provide benefits to their customers.

Different organisations monetise their consumer data differently – this is a core part of their business model and source of competitive advantage – and therefore any changes to the way businesses can use data has potential to be disruptive. Additionally, most organisation within the retail sector are likely to carry less comprehensive data in many instances than organisations in the banking or energy sectors, and a CDR that is implemented for the retail sector should consider these differences. However, there is a potential benefit in setting clear expectations for the governance, capture, and sharing of data for private entities.

While it is unclear how Treasury is seeking to implement CDR or which areas may be subject to legislative intervention at this early stage, there are areas where government guidance would provide clarity for retailers and enhance the customer experience. For example, businesses stand to benefit from a clear understanding of how data can be used or shared with third parties, while consumers could benefit from simple ways to provide consent or choose to provide their consumer data to businesses to obtain a tailored shopping experience.

Similarly, retailers would welcome a framework which establishes clear expectations for entities use and security of data, and reduces the risks of fraud or spam. For consumers, data security is of utmost importance, and any potential interventions should seek to ensure consumer choice is present for how data is shared with businesses and with governments.

However, prior to any intervention, Treasury should clearly consider and outline its objectives as part of any consultation and understand the issues faced by the retail sector. This will ensure that government is effective in supporting market efficiency and allows businesses to innovate and create value. The ARA would welcome the opportunity to engage with Treasury as part of future consultations to ensure that interventions will not be inefficient or ineffective, but instead deliver tangible benefits for both retailers and consumers.

Lessons from overseas markets

The rollout of similar initiatives in other jurisdictions, notably the General Data Protection Regulation (GDPR) in Europe holds valuable lessons which we believe should form a basis for Treasury's considerations as it proceeds toward the future implementation of a CDR in other sectors.

Throughout the implementation of the GDPR, retailers were significantly challenged by the scope and timing of implementation, incurring significant costs to comply with regulations that offered minimal benefits while distracting them from their core business. In some respects, the regulations and strict implementation timelines stifled innovation, rather than providing a framework to support innovation or competition. The broad scope of regulations, which were often unclear, also added significant confusion and cost to the process, underlining the need for clarity should the concept be applied to the Australian retail sector.

It should be noted that the retail community is diverse in size and scale and smaller retailers in particular may not have significant resources available to invest in new technology platforms or to significantly modify their data storage and management. This would be a significant problem for small and medium-sized retailers and smaller start-ups, which are likely to be hindered by excessive red tape.

As such, the ARA recommends that any changes affecting retailers, or their loyalty programs is subject to a detailed consultation process and provides for feasible timelines and a clear scope that is realistic for retailers of all sizes achieve.

While CDR has the potential to enable some benefits for businesses and consumers, it is imperative that the future rollout is practical and manageable for the retail industry to realise these benefits.

Thank you again for the opportunity provide a submission in response to the Consultation Paper. If you would like to discuss any of the content of this submission further, please do not hesitate to contact me [REDACTED]

Yours sincerely

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Chief Executive Officer