



Australian Government



Consumer  
Data Right

## Consumer Data Right Sectoral Assessment

### Open Finance: Stage 1 Non-bank lending (March 2022)

*An explainer for anyone engaging in a Consumer Data Right (CDR) consultation process for the first time.*

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#### ***What is the Consumer Data Right?***

The CDR is a significant, economy-wide reform that empowers consumers to benefit from the data Australian businesses hold about them, ultimately strengthening innovation, competition and productivity.

The CDR is a fundamental right for Australian consumers and businesses to have power over data generated about them, to share and extract value from this data and help access the many benefits of progress in digital infrastructure and capability.

The benefit to consumers is that, by consenting to sharing their data with accredited and trusted third parties, they can access better-value and personalised products and services, financial management, and budgeting applications, to name just a few.

The CDR provides the core infrastructure to support a data-driven economy, which is based on transactions in value (including data) between consumers, businesses and government. When data is exchanged within the CDR framework, it puts consumers in the driver's seat because it is them, not the businesses that hold their data, who draw value from their activities and transactions.

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An economy-wide CDR is a key pillar of the Government's \$1.2 billion Digital Economy Strategy - the roadmap for Australia and Australians to become a leading digital economy and society by 2030.

The potential benefits of digitising the Australian economy have been estimated at \$315 billion over the next decade, which will benefit all aspects of Australian society. The CDR is a key component of this.

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## Who is involved?

The Treasury leads CDR policy, including development of rules and advice to Government on which sectors the CDR should apply to in the future. Senator Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy, is the responsible Minister.

Treasury works closely with the [Australian Competition and Consumer Commission \(ACCC\)](#), which is responsible for the accreditation process, including managing the Consumer Data Right Register, and ensures providers are complying with the Rules and takes enforcement action where necessary; and the [Office of the Australian Information Commission \(OAIC\)](#), which regulates privacy and confidentiality under the CDR, handles complaints and notifications of eligible data breaches relating to CDR data. The [Data Standards Body](#) develops the technical and consumer experience standards, which are made by the Data Standards Chair.

At each stage of the CDR's development, there have been public consultations, just like this one. Feedback from industry stakeholders and community representatives has helped shape the way the CDR works.

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## What is the process for CDR sectoral assessments?

The Minister may designate a sector of the Australian economy to be subject to the CDR under section 56AC of the *Competition and Consumer Act 2010* (the Act). A sector is designated by legislative instrument, which specifies the classes of information (data) designated for the purposes of the CDR and the class or classes of persons who hold the designated information (data holders).

The Act provides that, before a sector can be designated, certain matters under section 56AD(1) (collectively, the statutory factors) must be considered by the Minister. These include:

- the interests of consumers
- promoting competition
- the efficiency of relevant markets
- promoting data-driven innovation
- the privacy or confidentiality of consumers' information
- any intellectual property in the information
- the public interest, and
- the likely regulatory impact of designation.

The Act also requires that, before designating a sector, the Minister must be satisfied that the Secretary of the Department (the Treasury) has arranged for consultation and analysis about designation and published a report about that analysis and consultation. As part of its consultation, the Treasury is required to consult the Australian Competition and Consumer Commission (ACCC), the Office of the Australian Information Commissioner (OAIC), and the primary regulator of the relevant sector (section 56AE(1)(c)). Making a designation instrument cannot occur until 60 days after the publication of the report. Before making a designation instrument, the Minister must also consult the OAIC about the likely effect of the instrument on the privacy and confidentiality of consumers' information (section 56AD(3)).

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## *What happens after designation?*

A designation instrument specifies the parameters for classes of information that may be shared under the CDR in a particular sector, as well as who is required to share it. Once a sector has been designated, CDR rules and standards for that sector can be made in accordance with statutory processes, including extensive consultation requirements.

Designation involves specifying ‘classes of information’ or data to be designated but designating a sector does not in itself impose substantive obligations. Rather, the requirement to disclose particular data emanates from the CDR rules, which establish what is ‘required’ CDR data that must be shared in response to a valid request, as well as what information data holders are ‘authorised’ to share on a voluntary basis.

The rules have been developed to apply universally across sectors to the extent possible, however, sector-specific provisions and modifications are catered for in sector-specific schedules. Once designation of a sector occurs, sector-specific issues (for example, external dispute resolution arrangements specific to that sector) are considered, as well as the development of sector-specific data standards.

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## *Which sectors has the CDR been rolled out to?*

The CDR framework has been designed to apply to the whole Australian economy and, to date, has been activated sector by sector: starting with banking, then energy, and then telecommunications.

The CDR was first implemented in banking in July 2019 with product reference data-sharing by the four major banks. Since 1 February 2022, all banks have been required to share product and consumer data.

Sharing energy data will start from October 2022, beginning with product data to provide consumers with better information about energy products and service offerings so as to support more detailed comparison services, followed by consumer data.

With the Minister having formally extended the CDR to the telecommunications sector on 24 January 2022, Treasury will commence consultations with industry and government stakeholders on the specific datasets to be shared, as well as the implementation timeframe.

Changes made in October 2021 to support increased participation in the system also expanded the scope of who can access CDR data. Those changes empower consumers to share their data easily and securely with certain trusted professional advisers, including their accountant, tax agent, financial counsellor, financial adviser or mortgage broker. They also provide new pathways for industry participation by allowing ACCC-accredited CDR participants to sponsor other parties to become accredited or allow them to operate as their representative.

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## What are the privacy and confidentiality protections under the CDR?

The CDR legislative framework has in-built privacy and security protections, including the 13 Privacy Safeguards under the *Competition and Consumer Act 2010*, as well as rules that relate to the privacy and confidentiality of CDR data. The Privacy Safeguards apply to consumer data and set out privacy rights for consumers and obligations for participants (such as data holders, who disclose CDR data, and ADRs, who collect and use CDR data). The Privacy Safeguards and privacy and confidentiality related rules include:

- requirements for obtaining informed consent to collect, use and disclose CDR data (including providing CDR consumers with control over the types or subsets of CDR data that is shared, to whom and for what purpose)
- obligations around the quality and integrity of consumer data
- obligations for the security of CDR data (including in relation to when CDR data must be deleted or de-identified and how), and
- a data minimisation principle.

In addition, under the framework, parties that can collect CDR data from data holders (and then use that data) must be accredited. Accreditation indicates that a party has met the strict accreditation criteria and makes that party legally responsible for their use and disclosure of CDR data.

The Data Recipient Accreditor (currently the ACCC) can accredit persons if they meet criteria regarding insurance, being a fit and proper person, information security, and appropriate internal and external dispute resolution processes. The conduct of ADRs (as well as data holders) is also overseen by the ACCC and the OAIC. In particular, the OAIC is responsible for enforcing the Privacy Safeguards and consumer data rules that relate to those safeguards or to the privacy or confidentiality of CDR data, and provides complaint-handling for these matters.

By providing a secure framework to share data, the CDR provides a greater level of privacy protection and security to consumers than is afforded by other data-sharing methods that are currently used outside the CDR. For example, the CDR is a safer alternative to screen-scraping as it often requires consumers to disclose their username and password to a third party to receive services.

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For more information about the Consumer Data Right, visit [cdr.gov.au](http://cdr.gov.au)