

# Zepto's Submission on CDR: Exposure Draft Legislation to Enable Action Initiation

24 October 2022



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Future Directions Unit  
Consumer Data and Digital Division  
Treasury  
Langton Cres  
Parkes ACT 2600

By Email: [data@treasury.gov.au](mailto:data@treasury.gov.au)

Dear Treasury,

### **Re. Consumer Data Right - Exposure draft legislation to enable action initiation**

Zepto welcomes the opportunity to provide a submission on the CDR exposure draft legislation to enable action initiation (Draft Legislation). The Consumer Data Right is a significant piece of digital infrastructure and action initiation will play a critical role in driving innovation and delivering better experiences and outcomes for consumers and businesses.

At Zepto we are pioneering the future of payments through data-driven, real-time, account-to-account merchant payment solutions designed for the on-demand digital economy.

As the first non-bank fintech approved to connect directly to the New Payments Platform (NPP) as a 'Connected Institution', and the first non-bank payments provider to become an Accredited Data Recipient (ADR), Zepto is well placed to contribute to the conversation on the expansion of the CDR framework to enable action initiation, particularly around payment initiation.

Our founders recognised early that the combination of real time insights and payments had incredible potential, and that being both directly connected to the NPP and fully accredited under the CDR was the key to optimising the opportunity. While the emergence of those use-cases is slow, it is the future. This exposure draft legislation is an important step forward in enabling fintechs and payment providers like Zepto to start building compelling use cases that allow consumers to do more with CDR including sending instructions to make payments. For this reason we are supportive of the initial focus on payments, given the prevalence of use cases in this space.

We are an enthusiastic supporter of open data and are excited by the potential for the CDR to support the rapidly developing, data-driven economy here in Australia. Overall, Zepto supports the expansion of the CDR to enable action initiation. We are also supportive of leveraging and building on the existing regulatory framework for information sharing, minimising the compliance burden for those already integrated with the CDR and focusing on the instruction layer.

It is worth noting that Zepto recently launched in New Zealand and has started conversations in that market around open banking use cases. As Scott Farrell noted in his Future Directions report<sup>1</sup>, connections to similar overseas frameworks should be pursued. We believe Australia has an opportunity to be at the forefront and drive alignment within the ANZ region on open banking regimes and frameworks.

In the following section, Zepto has outlined some recommendations in response to the exposure draft legislation. We have provided some recommendations to ensure that the Draft Legislation enabling action initiation is carefully drafted in a way which is flexible and able to adapt to new use cases and models over time. We have provided some flows to help illustrate how the CDR roles could be used in various use cases.

Zepto welcomes the opportunity to discuss our submission further, as well as to participate in collaboration and discussion forums. If you require further information or have any questions, please contact our Head of Government, Emily Curlewis at

[REDACTED] \ [REDACTED].

Yours sincerely,



**Chris Jewell**  
**Chief Executive Officer (CEO), Zepto**

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<sup>1</sup>'Future Directions for the Consumer Data Right', October 2020, p. 7

## About Zepto

[www.zepto.com.au](http://www.zepto.com.au)

Zepto is a real-time, account-to-account payments platform that enables merchants to make, manage, and receive payments by connecting them directly to their customers bank accounts in elegantly simple, data-rich, cost effective ways.

Founded in Byron Bay in 2017 [as Split Payments] by four local entrepreneurs who had experienced the frustrations and debilitating impacts of legacy payment infrastructure in their successful tourism business — Zepto has grown from bootstrapped start-up to an award-winning, trail blazing payments technology company processing some \$50 billion of account-to-account payments annually. Zepto's customer base has grown to more than 350 merchants including Australia Post, Ladbrokes, Superhero, Binance Australia, Coinbase and 13Cabs.

Zepto provides fully automated technology to allow businesses to disburse or collect instant payments directly to/from customer bank accounts. Combined with insights from an evolving open banking framework we are enabling cost effective, safe and simple payment experiences for both business and their consumers.

We recently launched into New Zealand and are assessing expansion into other international jurisdictions including the US. As a remote workforce Zepto is providing job opportunities for many across regional Australia and adding value to the economy as we scale.

## Summary of recommendations:

### Part 1: CDR Action Initiation Framework

#### *A. Action Initiators and Service Providers*

Zepto welcomes the clear delineation of roles in the proposed expanded Consumer Data Right (CDR) framework between an Accredited Action Initiator (AAI) and an Action Service Provider (ASP). The distinction will allow for the separation of the different obligations which might apply to the two roles and to incubate ASPs from additional obligations in respect of, what will be for many ASPs, business-as-usual conduct. To that end, and as elaborated on in Part 3 of this submission, Zepto also welcomes the proposal not to regulate the “action layer” as indicated in paragraphs 1.13 and 1.17 of the Exposure Draft Explanatory Memorandum.

It is clear from the Exposure Draft Explanatory Memorandum that there is an equating of the roles of Accredited Data Recipients (ADRs) and AAIs on the one hand, and the roles of designated data holders (Data Holders) and ASPs on the other hand (see paragraphs 1.35 to 1.47) such that AAIs are required to be ADRs and ASPs are required to be Data Holders. Although Zepto can see why such an approach might appear to be the natural way to view the action initiation framework on the basis that:

1. ADRs receive consumer data to provide a product or service so naturally they should be the ones to receive requests and consents from consumers to initiate actions; and
2. Data Holders hold consumer data (for example, in the case of a bank, their customer's banking details) so naturally they should be the ones to receive an instruction to carry out an action (for example, to make a payment),

in Zepto's submission, such an approach may be inflexible and restrict the possible uses of CDR action initiation.

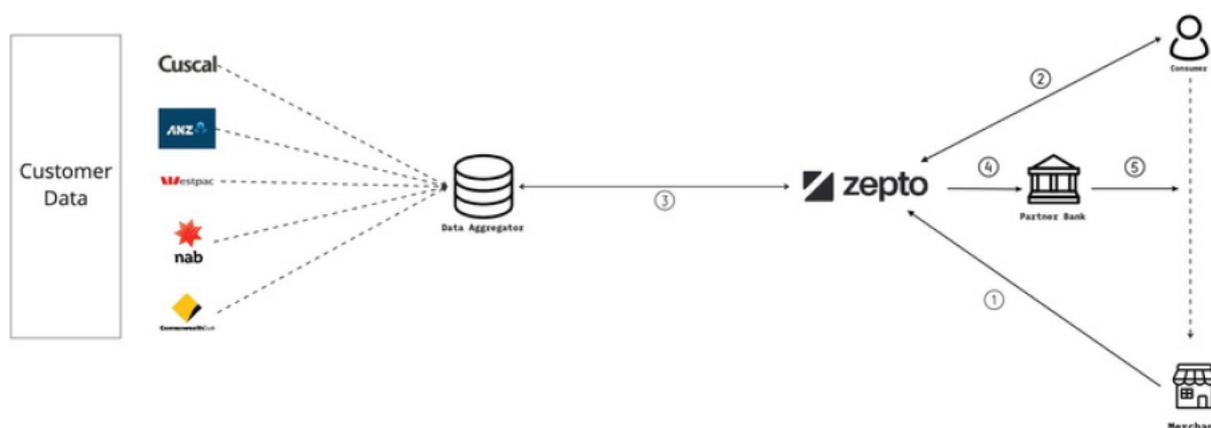
As is contemplated in paragraph 1.36 of the Exposure Draft Explanatory Materials, a single entity can act in different capacities where both data sharing and action initiation are involved. However, the example referred to in that paragraph (Example 1.2) contemplates an entity being both an ADR and an AAI (a possibility reiterated at paragraph 1.46 of the Exposure Draft Explanatory Materials). While Zepto accepts that this is the typical way in which an entity might assume two different roles, Zepto submits that there are other possibilities which need to be considered and provided for, namely:

1. an entity which is not a Data Holder being an ASP;
2. an entity being both an AAI in respect of some actions and an ASP in respect of other actions; and
3. an entity being both an AAI and an ASP in respect of the one process (for example, in the case of one payment flow).

The first of these appears to be contemplated by the exposure draft legislation through the inclusion of the separate role of “voluntary action service provider” (VASP) which is defined as a person who is not within a class of data holders but which is approved for certain types of CDR actions,<sup>2</sup> and which is explained in paragraphs 1.39 to 1.41 of the Exposure Draft Explanatory Materials. In Zepto’s view, service providers, whether they be ASPs or VASPs, are simply carrying out actions and this role should be divorced, wherever possible, from the role of holding consumer data and the obligations which attach to that role (see further Part 1B below) accepting that, in many cases, Data Holders will also be accredited as ASPs and acknowledging the necessity of reciprocal data holder obligations.

To contextualise the above mentioned possibilities, set out below are example use cases which illustrate how a company like Zepto could, in a payments context, be an AAI (see **Scenario 1**), an ASP (or VASP) (see **Scenario 2**) or both an AAI and an ASP in respect of the one payment flow (see **Scenario 3**).

### I. Scenario 1



By way of summary, in this scenario, Zepto obtains, through the CDR and with the assistance of a merchant, access to a merchant’s consumer’s banking data and then sends a request to its partner bank to process a payment from the consumer to the merchant. In this scenario, Zepto would be the action initiator and its partner bank would be the service provider. A description of each of the steps in the above payment flow is set out below.

**Step 1.** A merchant requests Zepto initiate a payment if or when one of its consumer’s bank accounts meets certain conditions. For example, a merchant which provides its consumers with subscription services requests Zepto initiate a payment for the one of its consumer’s fortnightly subscription fee once the consumer receives a fortnightly salary payment into their bank account.

**Step 2.** Zepto collects consent (pursuant to its ADR accreditation) from the merchant’s consumer to access specific parts of their banking data (in practice, this would be facilitated by the merchant) and collects consent (pursuant to its AAI accreditation) from the merchant’s consumer for Zepto’s partner bank to carry out the action of making payments in the specified circumstances.

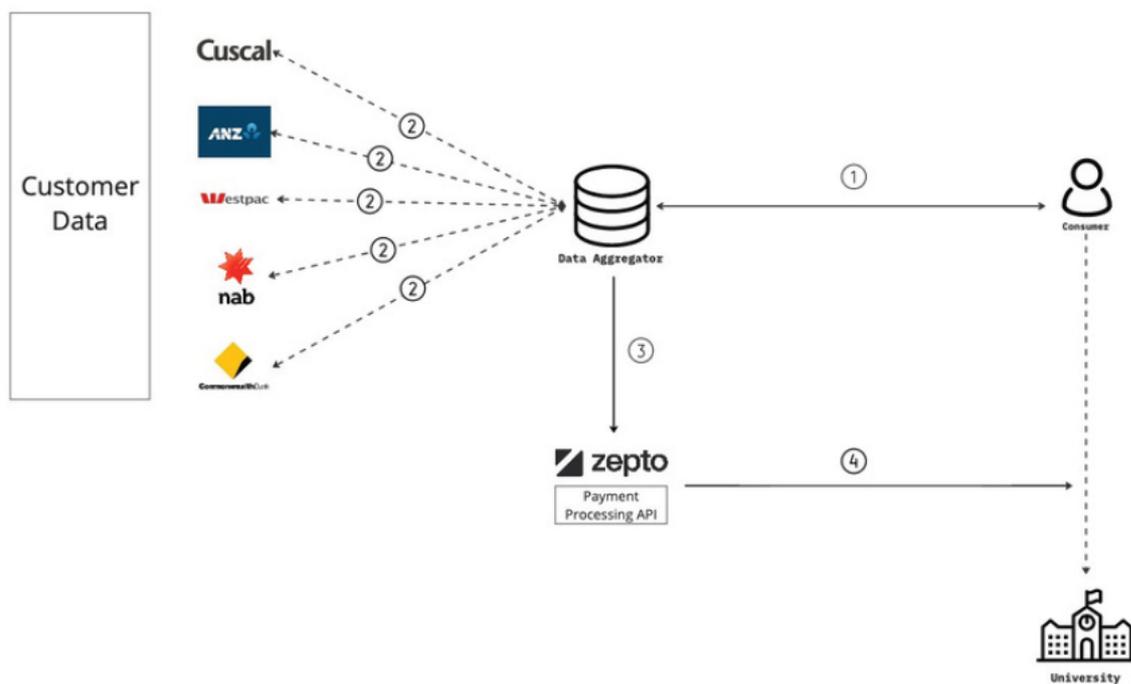
<sup>2</sup> Proposed s 56AMB(2) of the Exposure Draft Legislation.

**Step 3.** Through integrating with a banking data aggregator, Zepto accesses the consumer's bank account to obtain the relevant banking data.

**Step 4.** When the consumer's bank account receives the fortnightly salary payment, Zepto, pursuant to its AAI accreditation, initiates a payment on behalf of the merchant which involves Zepto requesting its partner bank carry out the action of making the payment.

**Step 5.** Pursuant to its ASP accreditation, Zepto's partner bank carries out the action of processing the payment thereby transferring funds from the consumer's bank account to the merchant's bank account.

## II. Scenario 2



By way of summary, in this scenario, Zepto obtains, through the CDR and with the assistance of a merchant, access to a merchant's consumer's banking data and then sends a request to its partner bank to process a payment from the consumer to the merchant. In this scenario, Zepto would be the action initiator and its partner bank would be the service provider. A description of each of the steps in the above payment flow is set out below.

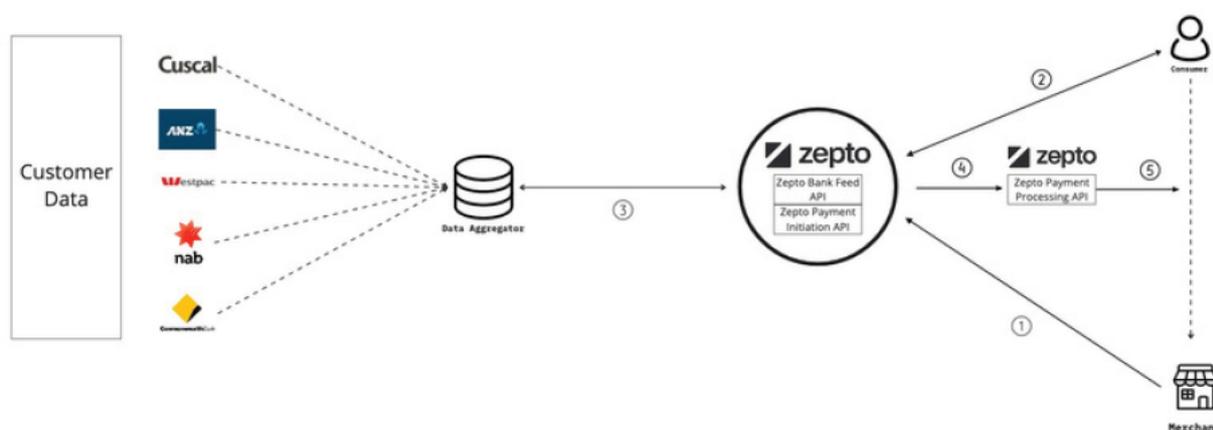
**Step 1.** A consumer provides consent to an AAI (that is not Zepto) to access specific parts of their banking data and for Zepto, as an ASP, to carry out the action of making a payment in specific circumstances. For example, a University student provides consent to both a data aggregator (the AAI) accessing their banking data (to, say, confirm that there are sufficient funds in it before payment is made) and to Zepto (the ASP) processing a payment to the University should there be sufficient funds.

**Step 2.** The data aggregator accesses the student's bank account and confirms that there are sufficient funds to make the payment.

**Step 3.** The data aggregator, pursuant to its AAI accreditation, initiates the payment on behalf of the student which involves the aggregator requesting Zepto process the payment.

**Step 4.** Pursuant to its ASP accreditation, Zepto carries out the action of processing the payment thereby transferring funds from the student's bank account to the University's bank account.

### III. Scenario 3



By way of summary, in this scenario, Zepto obtains, through the CDR and with the assistance of a merchant, access to a merchant's consumer's banking data as well as consent from the consumer to process a payment in certain circumstances. When those circumstances are met, Zepto then carries out the action of making the payment. In this scenario, Zepto would be both the action initiator and the service provider.

The steps in this scenario are identical to Scenario 1 except that:

1. In **Step 2**, Zepto collects consent (pursuant to its AAI accreditation) from the merchant's consumer to access specific parts of their banking data **and** for Zepto (pursuant to its ASP accreditation) to carry out the action of making payments in the specified circumstances (rather than, as in Scenario 1, collecting consent for Zepto's partner bank to carry out the action of making payments).
2. In **Step 4**, Zepto initiates a payment on behalf of the merchant which involves Zepto sending an internal instruction for the payment to be made.

3. In **Step 5**, Zepto (rather than, as in Scenario 1, its partner bank) carries out the action of processing the payment thereby transferring funds from the consumer's bank account to the merchant's bank account.

*B. Consent and liability*

Protecting consumer's data and consumer's consent is critical to the viability and sustainability of the CDR and of action initiation. Zepto therefore welcomes the proposal to extend the existing privacy safeguards to apply to CDR data when it is shared in action initiation.

However, as reflected above, Zepto can envisage circumstances where it is an ASP carrying out an action of making a payment without holding any consumer data or consumer consent (see, for example, Scenario 2). In such circumstances, the relevant consumer data and consumer instruction would be held by the action initiator and Zepto should not have any obligations in respect of that data and consent.

Obligations and liability regarding the holding of consumer data and consumer consent need to be explicitly framed to apply to the actual holders of that data and consent rather than, for example, framed to apply to specific roles within the framework (such as to an AAI or ASP). This will allow for participants to assume different roles within the framework without being subject to privacy and other obligations in respect of consumer data and consent unless they are in fact the holders of such data and consent. This will encourage participants to utilise the framework in different ways and provide certainty to participants regarding their obligations and potential liability in respect of consumer data and consent, without compromising the protection of consumer data which must remain a key priority of the framework.

## Part 2: CDR Payment Initiation

*A. Payments should be the first action type*

For the reasons that follow, Zepto considers that payments should be prioritised as the first action type declared by the Minister under the proposed legislation.

First, the payments industry has undergone significant change in the past few years driven by investments in innovation both from private enterprise and Government. Consequently, there is a high level of technological literacy and technical capability in the payments industry which positions the industry well in comparison to other industries to integrate with CDR capabilities and frameworks.

Secondly, and further to the above, there is an alignment between the CDR and PayTo on the NPP in that both provide the capability of payment initiation. Here it is worth emphasising that payment initiation in the CDR should not be seen to be in competition with or as an alternative to PayTo on the NPP. To the contrary, Zepto considers that the two systems are interoperable and utilising the new possibilities presented by each will greatly improve the payment experience for consumers. CDR action initiation should be implemented with this in mind.

Thirdly, Zepto welcomes that, as set out in paragraph 1.20 of the Exposure Draft Explanatory Materials, the declaration process will prioritise action types that represent the most benefit for consumers and the Australian economy. On that basis, Zepto submits that payments is the obvious action type to be prioritised. Making payments is a part of everyday life for all Australians. Improving the way in which Australians can make payments will save all Australians both time and money and, further, it will contribute to significant growth in the Australian economy by helping Australia become a global leader in payments innovation.

*B. CDR payment initiation should be payment system agnostic*

While the possibilities presented by the interoperability of payment initiation in the CDR and PayTo in the NPP are obvious, CDR payment initiation should be compatible with all payments systems. More than \$10 trillion in payments were processed through Bulk Electronic Clearing System (BECS) in 2019 alone<sup>3</sup> and, following industry consultation, in 2021 AusPayNet predicted that BECS would not be closed for at least another five or six years, which means BECS is going to continue to be utilised until at least 2027 and very likely beyond that.<sup>4</sup> Therefore, pegging the take up of CDR payment initiation to the transition from BECS to the NPP would seriously hamper the utility of CDR payment initiation in the short to medium term.

The Government should provide clarity on the proposed scope of CDR payment initiation and, specifically, whether it will be compatible with all payments systems or specific payment systems, so that the payments industry can begin to think about how best to integrate and align the relevant technologies and systems.

*C. End user experience*

In considering the integration of CDR payment initiation with existing payments infrastructure, the experience for end users must be kept front and centre. For example, a similarity between CDR payment initiation and PayTo on the NPP is that both require consent from the end user, specifically:

1. in CDR payment initiation, the end user instructs an AAI to initiate actions on their behalf and with their consent; and
2. with PayTo on the NPP, the end user authorises a third party to initiate payments from their bank account.

If we consider a use case where an end user provides consent to an AAI to initiate a payment from their bank account to a payee (such as a merchant) and separately provides a consent (or "mandate" to use NPP language) to the merchant to collect the funds from their bank account using PayTo, we can see how the experience for the end user might become cumbersome. To overcome this, consideration should be given to streamlining the consent process in payment flows utilising both CDR action initiation and PayTo on the NPP. One way to improve the user experience in such situations is to package the consents together so that the end user provides the two consents (being the consent for a third party to initiate a payment on their behalf and the consent for a payee to collect the funds from their bank account using PayTo) in one instruction or message.

<sup>3</sup> Proposed s 56AMB(2) of the Exposure Draft Legislation.

<sup>4</sup> Future State of Payments Action Plan, 2021 Update, p. 6.

### Part 3: Regulation

CDR action initiation, and the CDR more generally, is about trust, that is, consumers placing their trust in companies by providing them with their data and by asking them to do things on their behalf in order to make their lives easier.

Zepto supports a rigorous accreditation process and agrees with the comment in paragraph 1.89 of the Draft Exposure Explanatory Materials regarding the importance of accreditation in ensuring the credibility and integrity of the participants thereby encouraging consumer confidence in the CDR system.

Notwithstanding, Zepto cautions against overlapping accreditation processes creating an overly burdensome regulatory environment for participants. This risk is exacerbated for participants who operate in already highly regulated industries and participants who are smaller in size and already face barriers to entry.

It is for this reason that, as mentioned, Zepto welcomes the proposal not to regulate the “action layer”. Regulation of CDR action initiation should, where possible, complement current regulatory frameworks which exist both inside and outside the CDR.

To that end, set out below are ways in which an overly burdensome regulatory framework could be avoided without compromising on the highest standards of credibility and integrity of the system.

1. Entities which have already obtained accreditation as an ADR should automatically be granted accreditation as an AAI or at least be offered an expedited accreditation process.
2. Entities which have already obtained accreditation as a Data Holder should automatically be granted accreditation as an ASP or at least be granted an expedited accreditation process.
3. The accreditation process for entities intending to obtain multiple accreditations (for example, as an AAI and a VASP) should be streamlined.
4. ASP accreditations should be granted according to action type to avoid, where prudent, the need for ASP applicants to satisfy more general obligations which are irrelevant to the actions it will carry out. To that end, Zepto welcomes the proposed approach of granting accreditation at different levels responding to specific types of CDR actions, classes of CDR data or classes of applicants (as set out in paragraph 1.91 of the Draft Exposure Explanatory Materials).
5. The ASP accreditation process should acknowledge relevant accreditations already obtained by the applicant outside of the CDR. For example, in the payments industry, companies that are already accredited to make payments (for example, as a Connected Institution to the NPP), should automatically be accredited to carry out the actions which they are already authorised to do pursuant to that accreditation.

6. Strict (and as short as possible) time frames should apply to the proposed public consultation period to be undertaken by the Minister prior to declaring an action type.
7. Before making any rules in respect of the payment action, the Minister should give careful consideration to the many rules and regulations which already apply to the making of payments including, for example, in respect of the NPP, the NPP rules and procedures, to avoid duplication and unnecessary complexity for participants.

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We are grateful for the opportunity to provide comments on the Draft Legislation. We welcome the opportunity to discuss any of our comments and are keen to work alongside Treasury to ensure that these issues are appropriately considered.

