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Submission
Unfair Trading Practices
Consultation Regulation Impact Statement

About Us
This submission is made by Stabilize, an early stage start up CIC. We are formulating solutions to deliver better citizen agency and control over personal data, and pathways to more effective use of data both for individual benefit, and to address community challenges such as climate change.

We don't believe that a 'regulatory patch up' is sufficient to deal with the fundamental data access inequities of existing data platforms. The following submission therefore focusses on possible data architectures that can better serve the needs of Australian citizens, and the way in which those systems could be supported through regulation. These alternatives are seen as parallel, rather than replacement systems, and can typically be implemented using existing technologies.

Overview
The use of digital platforms by individuals generates data that is inherently personal. The current structure of data management within these platforms does not favour providing this data to individuals in an easily accessible or usable format. This is probably the main area where consumer rights are unfairly compromised by these data architectures. Existing data platform operators have much greater power than consumers in gathering and utilizing data from interactions. The value assigned to the data is also inequitable – virtually valueless in the hands of the individual, but very valuable to the data platforms.

The Problem
Consider the data we generate during the course of the day. This includes receipts, location data, images, communications, browsing history, file creation, data from internet of things devices, and so on. Logically, at the end of the day, we should be able to 'replay our day in data' – where we were, what we bought, who we communicated with, what we searched for, the files we created, the energy we used, the systems we accessed.

However we can't do that, as the data from each system is largely siloed. In the case of the major data platforms, much of this data is collected to enhance the delivery of their services, but also for the purposes of building a profile of users and their behaviour to promote consumption and generate advertising revenue.

Alternative Data Models
A potential solution is a data architecture centred on individuals. In this alternative model, data is also directed to a secure personal data store which integrates various personal datasets and allows them to be linked to external data and systems, supporting delivery of personal services optimized for the benefit of the individual.

This system should also provide the capacity for individuals to grant access to relevant personal data for specific purposes, and to revoke that access when the data is no longer required. This largely eliminates the need for personal data aggregation by third parties for administrative purposes, with the attendant security risks (examples being the data breaches at Optus and Medibank). It simplifies compliance with regulations similar to the EUs GDPR, and would also allow that personal data to be portable between platforms, increasing competition between providers.

Better control of personal data by individuals would open up a range of options for anonymized data sharing. For instance, anonymous sharing of consumption data (digital receipts) could would allow economic indicators such as inflation to be monitored in granular detail, virtually in real time.

Similarly, since our environmental impact is proportional to our consumption of goods and services, anonymous sharing of consumption data would allow emissions to be measured, by linking consumption items with related emissions footprints.

In both examples, the data sharing mirrors data gathering undertaken by agencies such as such as the ABS, in delivering critical governance data such as monthly CPI figures, but could be derived from a larger, and more readily accessible, dataset.

Overseas Examples

The balancing of the data flow to corporate data silos, with similar data flowing to individual control, is already being trialled in Europe. The government in Flanders in Belgium is experimenting with citizen personal data stores with permissioned sharing, initially for a limited number of government services. Trials with patient data under patient control have been conducted by the NHS in the UK. Trials are being conducted by the BBC in the UK, using personal data stores to manage viewing preferences. This allows portability of viewing history and preferences between platforms.

Personal Data Stores – System and Regulatory Requirements

This sort of model builds competition by separating data, from the systems that use that data. It requires establishment of standards for this data to allow interoperability between systems, a secure way of storing data, and a user friendly interface to allow individuals to access and process that information. It would also benefit from some limited extension of existing regulations.

For instance, extension of the Consumer Data Right to make delivery of consumption receipts to consumers in a useable, digital format a mandatory option at point of sale, would allow a range of time consuming activities to be automated, for instance tax record keeping and even preparation of simple tax returns. This would complement and complete data now accessible to individuals through use of bank feeds, as facilitated by existing CDR rules. This has obvious implications for general productivity.

Public Benefits

We also need to consider how improving the quality and control of data will provide public benefit. For instance, businesses will be increasingly expected to provide greenhouse gas emissions returns in parallel with financial returns. Since emissions are proportional to consumption of materials and services within supply chains, most measurement systems use receipts linked to emissions footprints to generate this data. Mandating delivery of receipt data in a standard digital format will allow these figures to be generated automatically with limited impact on productivity.

At an individual level, creating a platform for personal data management allows gradual expansion of the data types stored and linked, and consequent opportunities for analysis across a range of data types. For instance, food purchases, data from activity trackers and receipts from doctors and pharmacies all relate to

individual health, and provide a more detailed, longitudinal dataset both to analyse and support individual health outcomes, and for use by health professionals in providing better targeted health solutions.

Addressing Digital Surveillance

Improved control of personal data also opens up the possibility of a more healthy data relationship between businesses and customers. Digital 'surveillance' undertaken by digital platform providers attempts to infer the purchasing intentions of consumers to accurately target advertising. Obtaining personal details from consumers for access to online services often results in unsolicited advertising, or spam, clogging personal communication channels. While these practices are not 'unfair', they often represent a power imbalance whereby the provision of a service is contingent on a compromise of private information (email or SMS address), resulting in unwanted communications.

By creating a dedicated communication channel between businesses and customers optimized for marketing, these problems can be overcome. This channel would also enable businesses to simply ask customers what they want in a non-invasive way, rather than surveilling their online data in order to guess buying intentions. This sort of system probably doesn't require regulatory change, but could be regarded as a 'sweetener' for businesses when adopting a digital receipt delivery system that doesn't require access to a customer's personal information.

Anonymized Data Sharing as a Basis for Internet Searches

Anonymized sharing of consumption data to a common database of products and services would provide the basis for product searches where results are updated in real time with actual sales prices, and would also allow linking to related databases to allow, for instance, searches results to be ranked by sustainability.

This sort of 'green search engine' would diversify search options, particularly around product and services searches, increasing competition in an area that is presently essentially a monopoly. It would also provide the underpinning of a 'sustainability marketplace', where consumers are empowered to make choices based not only on price and quality, but also sustainability.

Conclusion and Recommendations

While an consultation of this nature inevitably focusses on regulation of existing systems to prevent harms, it is also important to consider the way in which those existing data structures inhibit use of data for citizen benefit. We suggest that government should support investigation of the provision of secure personal data stores for citizens. This should parallel an extension of the Consumer Data Right to require the option of digital receipts to be offered to consumers, delivered in a standard format directly to the consumer's personal data store.

This sort of initiative supports creation of a parallel and in many respects more useful data architecture better focussed on individual and community needs, with low cost for implementation and strong opportunities for enterprise in providing solutions built on this data. This will, over time, generate the competition with existing platforms and may, in parallel with targeted regulation, moderate their current market dominance. Since it reduces the 'barriers to entry' caused by data aggregation, it may also support a wider range of smaller, locally based businesses in providing services using systems compatible with these consumer controlled datasets.

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