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Consumer Data Right (Telecommunications Sector) Designation 2021

I, Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy, make the following instrument.

Dated

Jane Hume **DRAFT ONLY—NOT FOR SIGNATURE**
Minister for Superannuation, Financial Services and the Digital Economy

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1 Name

This instrument is the *Consumer Data Right (Telecommunications Sector) Designation 2021*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 56AC(2) of the *Competition and Consumer Act 2010*.

4 Definitions

Note: Some expressions used in this instrument are defined in the Act, including the following:

- (a) earliest holding day;
- (b) supply.

In this instrument:

Act means the *Competition and Consumer Act 2010*.

associate has the meaning given by section 318 of the *Income Tax Assessment Act 1936*.

carriage service has the same meaning as in the *Telecommunications Act 1997*.

carriage service provider has the same meaning as in the *Telecommunications Act 1997*.

carrier has the same meaning as in the *Telecommunications Act 1997*.

materially enhanced information: see section 9.

offer means an offer for a retail supply.

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product means:

- (a) a carriage service; or
- (b) a good or a service that is offered or supplied to a person in connection with supplying a carriage service.

Examples: Pre-paid mobile phone plans, post-paid mobile phone plans, and broadband internet plans.

supply means a retail supply.

5 Designation of sector subject to the consumer data right

- (1) For paragraph 56AC(2)(a) of the Act, information to which section 6, 7 or 8 applies is specified as a class of information.
- (2) For paragraph 56AC(2)(b) of the Act, carriers and carriage service providers are specified as persons who hold such information (or on whose behalf such information is held).

Note: Subject to section 56AJ of the Act, such persons will be data holders of CDR data within the specified classes.

- (3) For paragraph 56AC(2)(c) of the Act, the earliest holding day is 1 July 2020.

Note: Paragraph 56AC(2)(d) of the Act provides that an instrument designating a sector may specify the classes of information for which a person may, in certain circumstances, charge a fee. This instrument does not specify any such classes of information. The information specified in this instrument will, therefore, not constitute chargeable CDR data within the meaning of subsection 56AM(1) of the Act.

6 Specified classes of information—information about retail customers and users

This section applies to information that:

- (a) is about:
 - (i) a person or other entity who has been or is being supplied a product; or
 - or
 - (ii) an associate of such a person or entity, who has used or is using such a product; and
- (b) was:
 - (i) provided by the person or entity in connection with the supply; or
 - (ii) provided by the associate in connection with the use; or
 - (iii) otherwise obtained, in connection with the supply or use, by or on behalf of the entity that holds the information, or on whose behalf the information is held.

7 Specified classes of information—billing and account information about retail supplies of products

- (1) This section applies to the following information relating to supplies of products:
 - (a) information about accounts with persons to whom bills for the supply are sent (such as a number that identifies an account, and summaries of product usage and data usage relating to the account);

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- (b) information about bills issued in relation to the supply (such as billing periods, invoice numbers, dates of issue, current and previous balances, due dates, and details of how to make payments);
- (c) information about arrangements for payments to be made in response to such bills (such as direct debit details, details about online payments, and BPAY details);
- (d) information about payments in connection with the supply (such as details of previous payments, dates of direct debits, details about phone handset payments, and receipt numbers);
- (e) information about concessions or rebates provided in connection with the supply;
- (f) other information about such supplies that is used for the purposes of billing (such as which plan the customer is on, telephone numbers to which the bill relates, fees and charges, and discounts applied, for the different services offered under the product);
- (g) how long until a contract relating to a particular product is due to end.

Note: Information to which this section applies includes information that would ordinarily be present on bills issued by a particular carrier or carriage service provider.

(2) However, this section does not apply to:

- (a) information that would reveal the location from which a communication was made or received (other than the location from which a telephone call was made, in the case of a telephone call made from a landline); or
- (b) information about whether a particular customer is participating in a carrier's or a carriage service provider's financial hardship program; or
- (c) materially enhanced information.

Note: Paragraph (2)(c) means that materially enhanced information does not form part of the class of information specified by section 7. However, materially enhanced information may nonetheless be 'CDR data' due to paragraph 56A(1)(b) of the Act, which captures information that is wholly or partly derived from information that falls within a class of information specified in this instrument.

8 Specified classes of information—other information about retail offers or supplies of products

- (1) This section applies to information about products that are or have been offered or supplied by carriers or carriage service providers.
- (2) Without limiting subsection (1), the information mentioned in that subsection includes information:
 - (a) that identifies or describes such products; or
 - (b) about the price of, or fees or charges associated with, such products; or
 - (c) about terms and conditions associated with such products; or
 - (d) about eligibility criteria; or
 - (e) about the term or duration of such products; or
 - (f) about bundling arrangements associated with such products; or
 - (g) about services that are available for customers who require additional assistance, such as customers with disability; or
 - (h) about priority assistance services that are available for such products.

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- (3) Without limiting this section, the information may relate to offers or supplies:
 - (a) to a particular class of person or entity; or
 - (b) to a particular person or entity.

9 Exclusion—materially enhanced information

- (1) Information is *materially enhanced information* where:
 - (a) the information was wholly or partly derived through the application of insight or analysis to information to which section 7 applies (*source material*); and
 - (b) the insight or analysis:
 - (i) was applied by, or on behalf of, the person or entity that holds the information or on whose behalf the information is held; and
 - (ii) rendered the information significantly more valuable than the source material.

Note 1: The materially enhanced information may have been derived entirely from source material, or from a combination of source material and other information. It is only necessary for the application of insight or analysis to render the information significantly more valuable than the source material.

Note 2: The application of insight or analysis may have rendered the information more valuable than the source material by enhancing its usefulness, usability or commercial value.

- (2) Information is not *materially enhanced information* where the derivation of the information was undertaken in order to meet a regulatory requirement.
 - Note: Section 9 only operates to exclude information from the scope of section 7. As a result, information to which section 6 or section 8 applies is not excluded by virtue of this section. For instance, if materially enhanced information were to fall within the terms of section 8, that information would still form part of the class of information specified for the purposes of paragraph 56AC(2)(a) of the Act.