

Monday, 13 March 2023

Senator Jess Walsh
Chair
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Walsh

Inquiry into the Treasury Laws Amendment (Consumer Data Right) Bill 2022

Chartered Accountants Australia and New Zealand, CPA Australia, and the Institute of Public Accountants together represent over 290,000 professional accountants and a further 55,600 provisional accountants. Many of our members are key participants in the financial sector and support the implementation of the action initiation within the consumer data right (CDR) ecosystem in due course.

Our primary concern is that the proposed Bill does not talk to a consumer's key gateway to the CDR, their trusted adviser. It is unclear if trusted advisers are captured as accredited action initiators or if they must seek such accreditation.

Trusted Advisers, as listed under rule 1.10C(2) in the *Competition and Consumer (Consumer Data Right) Rules 2020* (CDR Rules), are persons that already meet the privacy and security requirements of the CDR ecosystem. This recognises that they already have obligations under legislation to protect consumers and their data under their respective professional associations, regardless of whether they meet the small business exemption under the Privacy Act. This includes professional accountants who provide services in accordance with Accounting Professional and Ethical Standards Board pronouncements and related corporate, privacy and taxation legislation.

We, therefore, consider it inconsistent with existing CDR Rules to introduce a law that appears to require a trusted adviser to gain further unnecessary accreditation to initiate actions in the CDR ecosystem for actions that they already provide, securely, outside of the CDR ecosystem.

Further, we do not support the Assistant Treasurer's assertion that this reform will give "individuals and businesses more control over their data"¹ or empower them to make "informed choices"². The Bill significantly increases the complexity around "who can do what" within the CDR ecosystem. This makes it challenging for a consumer to make an informed choice when they first need to determine if the person they wish to initiate an action is accredited for that specific action.

For example, a consumer's chosen action initiator may be able to instruct a change of address but not instruct moving an account from Bank X to Bank Y. Equally, how will a consumer be informed of their rights, and how they vary, depending on whether their data holder is a core action service provider or a voluntary action service provider?

¹ House of Representatives, Second Reading Speech, Tuesday, 14 February 2023, page 93

² *ibid*

To empower a consumer to make an informed choice, a person should be approved to initiate instructions for any action with the consent of the consumer. The Bill allows the Minister to introduce multiple levels of accreditation for different actions, we refer to part 56BHA(1)(d). This will create a disincentive for a person to become an accredited action initiator and introduce friction between a consumer and their preferred action initiator.

We are concerned by the proposal in the Bill to allow the Minister to make a decision that an accredited action initiator may charge fees to transmit an instruction. This is not something that is for the benefit of consumers but appears to incentivise persons to become accredited action initiators in the CDR eco-system (see part 56BP(a)(aa)(ii)). Where fees are charged, it may not be transparent to the consumer why those fees are being charged. Moreover, where a consumer considers the fees unreasonable, the avenue for review is lengthy and complex. The review would be through the Australian Competition and Consumer Commission, then considered by a tribunal and, if required, adjusted by a legislative instrument, part 56BV(1).

We share Ms Zali Steggall OAM, MP's view, expressed in the House debate on this Bill, that before this Bill is implemented the government should undertake "extensive engagement and education"³ of consumers so they will be able to "take advantage of this excellent initiative."⁴ Without consumer engagement, the investment of scarce resources by the government, data holders and accredited data recipients will be underutilised.

This sentiment was solidified by us after attending the Data Standards Body Action Initiation Workshop: 01 on 7 March 2023 where possible applications of action initiation in the CDR were worked through, with the first action under consideration being payments. We concluded that data sharing within the existing CDR ecosystem was key to innovation, however, we question the value of introducing another way to make payments that would provide no greater benefit than the Overlay Service Provider channel in the New Payments Platform.

To arrange a time to discuss our comments and address any questions on behalf of the undersigned, please contact Jill Lawrence at Jill.Lawrence@charteredaccountantsanz.com.

Yours sincerely

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³ House of Representatives, Second Reading Speech, Tuesday, 14 February 2023, page 89

⁴ ibid