



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

11 July 2019

Mr Daniel McAuliffe
Structural Reform Group
The Treasury

via email: data@treasury.gov.au

Dear Mr McAuliffe

CONSUMER DATA RIGHT (AUTHORISED DEPOSIT-TAKING INSTITUTIONS) DESIGNATION 2019

We welcome the progress on Consumer Data Rights (CDR) made under this Designation, and support the CDR's potential ability to generate competition and new business opportunities for small businesses. However, before a small business can fully benefit from the new information sharing protocols, we believe that significant progress still needs to be made around the following information security and privacy issues:

1. We support the ability of small businesses to share specific classes of information such as account name (Section 6), account transactions (Section 7), and interest rate and fees (Section 8) with trusted, accredited third parties (ATP). However, the Designation is silent on an authorisation process between the client and information holder before the information is transmitted to an ATP.

As the related information is financial, the final authorisation protocol should be secure yet simple to execute, and incorporate existing practises in order to minimise the administrative burden on small businesses. This should not be left to the discretion of ATP's that may adopt varied and onerous protocols.

2. The Designation should define how information provided to an ATP is handled (including deletion) once the original task has been completed, or when the client decides not to proceed any further after the information has been transmitted.
3. Both the client and information holder need to be confident that any entity that considers itself an ATP meets all legal requirements (including encryption standards) to be an ATP. We welcome the publication of the register of ATPs as covered by the Consumer Data Right Rules and advocate for all sufficient information to identify an accredited entity to be made publically available in an accessible, searchable platform and at no cost.

We also welcome that data holders cannot charge fees to respond to a consumer data request for simple and product data. However, we are concerned where, in later phases of implementation, data holders can offer to provide materially enhanced data packages and then apply a fee. While the Australian Competition and Consumer Commission (ACCC) can retrospectively determine if such a fee is reasonable or not, the consumer may not have the time to wait for such a decision.

T 1300 650 460 E info@asbfeo.gov.au
www.asbfeo.gov.au

Office of the Australian Small Business and Family Enterprise Ombudsman
GPO Box 1791, Canberra City ACT 2601

It is expected that a consumer data request will be generated at a critical point in time, for example when seeking to finance or to refinance, making it critical that simple and product data sets remain available free of charge. Where fees may be applied, the ACCC should set benchmarks for a tiered set of fees that reflects both the degree of enhancement and capacity of consumer to meet the fees. We would advocate for no fees for individuals and small businesses (as defined in the Banking Code of Practice 2019) to ensure that the benefits of the CDR are realised by the majority of participants, by number, in the sector.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Alexandra Hordern on 02 6121 5404 or at alexandra.hordern@asbfeo.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kate Carnell', with a long horizontal flourish extending to the right.

Kate Carnell AO
Australian Small Business and Family Enterprise Ombudsman