Submission

to the

Department of the Treasury

on the

Treasury Laws Amendment (Consumer Data Right) Bill 2018

September 2018

Joint submission by:
Communications Alliance
Digital Industry Group (DIGI)
Australian Information Industry Association (AIIA)

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TABLE OF CONTENTS

ASSOCIATIONS

Communications Alliance is the primary telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups.

Its vision is to provide a unified voice for the telecommunications industry and to lead it into the next generation of converging networks, technologies and services. The prime mission of Communications Alliance is to promote the growth of the Australian communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through Industry self-governance.

For more details about Communications Alliance visit http://www.commsalliance.com.au.

The **Digital Industry Group Inc (DIGI)** includes representatives from Facebook, Google, Oath, and Twitter. DIGI members collectively provide digital services to Australians including Internet search engines and other digital communications platforms. These services and platforms facilitate new distribution, marketing, and revenue generating channels for Australian businesses and content creators. They are also driving fundamental changes to the way that business is conducted and content is created and distributed.

For more details about DIGI visit http://digi.org.au/.

The **Australian Information Industry Association (AIIA)** is Australia's peak representative body and advocacy group for those in the digital ecosystem. AIIA is a not-for-profit organisation that has, since 1978, pursued activities to stimulate and grow the digital ecosystem, to create a favourable business environment and drive Australia's social and economic prosperity.

AIIA's members range from start-ups and the incubators that house them, to small and medium-sized businesses including many 'scale-ups', and large Australian and global organisations. While AIIA's members represent around two-thirds of the technology revenues in Australia, more than 90% of our members are SMEs.

For more details about AIIA visit https://www.aiia.com.au.

1. Introduction

Communications Alliance, the Digital Industry Group (DIGI) and the Australian Information Industry Association (AII)A) (Associations) welcome the opportunity to provide a submission to the Department of the Treasury on the exposure draft of the *Treasury Laws Amendment (Consumer Data Right) Bill 2018* (CDR Bill or Bill).

Our industry recognises the rights of consumers to be informed and have appropriate access to their data and product data to make informed decisions regarding the purchase of products and service and to move between providers. The telecommunications industry already provides very large amounts of data to consumers on their bills and through other mechanisms under law and co-regulatory instruments such as the *Telecommunications Consumer Protections Code*.

The telecommunications industry also collects large amounts of so-called metadata (in addition to data made available to consumers) which is subject to a mandatory Data Retention Regime and disclosure rules under the *Telecommunications (Interception and Access) Act 1979* and *Telecommunications Act 1997*. It is our clear expectation that metadata will not be considered to form part of the data sets of any potential future CDR requirement in the telecommunications sector.

The proposed legislation is very far-reaching and gives Government and the Australian Competition and Consumer Commission (ACCC) unprecedented powers to shape the supply-side of entire sectors.

While we recognise that the CDR Bill is designed to give effect to Government's response to the *Productivity Commission Inquiry into Data Availability and Use* (Inquiry) and other Reviews and Inquiries, we highlight that it is still important that appropriate consultation takes place prior to the enactment of the CDR Bill and, importantly, also prior to the designation of a sector by the Minister and prior to the making of sector rules by the ACCC. This process of consultation must be accompanied by a stringent, transparent and evidence-based analysis of regulatory impacts to ensure that each sector's individual circumstances are sufficiently accounted for and that rules or assumptions for one sector are not inappropriately transposed onto another sector that follows later in the CDR process.

In fact, such analysis is also required to ensure that the entire premise of the legislation, i.e. that increased access to data is beneficial for consumers and society at large, is actually correct and based on evidence, or at least a thorough analysis of costs and benefits.

We note the Productivity Commission undertook an extensive Inquiry and sought to balance the many competing factors when making its recommendations.

Unfortunately, we find that the CDR Bill does not give effect to the recommendations from the Inquiry for key elements of the regime. In fact, the CDR Bill proposes rules that were specifically rejected by the Inquiry and, subsequently by Government through the acceptance of the recommendations of the Inquiry report.

2. Concerns and suggestions for further consideration

2.1 Validity of the general premise of the CDR Bill

Government's policy rationale as stated in the Explanatory Memorandum (EM) may be summarised as follows:

- The Consumer Data Right (CDR) (if enacted, with effect from 1 July 2019) "will provide individuals and businesses with a right to efficiently and conveniently access specified data in relation to them held by businesses; and to authorise secure access to this data by trusted and accredited third parties".[1]
- The CDR will also require businesses to "provide public access to specified information on specified products they have on offer".[2] Accordingly, the CDR will also have an element of mandatory product disclosure.
- The CDR aims to facilitate 'apples with apples' comparisons of products and services and portability of data to facilitate switching between providers. The Government's stated policy rationale for the CDR is "Through requiring service providers to give customers open access to data on their product terms and conditions, transactions and usage, coupled with the ability to direct that their data be shared with other service providers, the Government expects to see better tailoring of services to customers and greater mobility of customers as they find products more suited to their needs."[3]

We note that, although expressed as a consumer right, the CDR will also be exercisable by businesses of any size. (See also our comments in Section2.6 of this submission.)

Prima facie, the CDR Bill appears to enable only the creation of a consumer right and portability of data relating to a consumer.

However, the CDR Bill (if enacted) will effectively and very substantially expand the discretions and powers of both the Australian Treasurer and the ACCC to design and shape supply-side competition in all sectors between providers of products and services by regulatory mandate with regard to the availability of data about customers, customer transactions and a provider's products and services and by potentially forcing disclosure of one of the major assets of many data-driven businesses, i.e. key data sets of customer-related data, including transformed and value-added data.

The CDR Bill enables the Australian Treasurer and the ACCC to empower all business and consumer customers to require a data holder to provide (either without charge or at a charge, as the ACCC may determine) indeterminate data sets and derivations of transactional and value-added data (as the ACCC may determine) to an indeterminate class of data recipients (who are required to be accredited for privacy and security matters and consented to by the customer). These extraordinary powers could be used to fundamentally reshape competition within a sector, including by facilitating entry into the sector of new competitors.

Given this substantial extension of competition policy and powers of competition policy-makers, it would be appropriate for the CDR Bill to ensure that these powers are only to be exercised after transparent and genuine consultative processes that ensure due consideration of the particular circumstances of each industry sector.

The telecommunications sector, for example, will not support the imposition of a CDR 'template', developed to suit the characteristics of the banking sector, but to some degree inappropriate to other sectors, being imposed on telecommunications companies.

[1] p.3, para 1.1, Exposure Draft Explanatory Materials, *Treasury Law Amendment (Consumer Data Right) Bill 2018*
[2] ibid
[3] p.3, para 1.3, Exposure Draft Explanatory Materials, *Treasury Law Amendment (Consumer Data Right) Bill 2018*

Creation and exercise of the power to designate a sector-specific CDR might be appropriate in relation to some data sets of some data holders, as Government has apparently decided in relation to the first phase of the implementation of the Open Banking CDR. But it is not self-evident that exercise of this power will enhance consumer welfare if exercised for any customer transaction data, or value-added customer data generally, or across industry sectors. Indeed, the opposite may be the case.

Against this background, it is disappointing that stakeholders are only afforded just over three weeks to consider this far-reaching draft legislation. It is also unfortunate that the consultation for the rules to be made by the ACCC for the banking sector is foreshadowed to commence a few days after the closing date for submissions on the CDR Bill. While these rules do not directly concern the telecommunications sector, we believe that the process and the rules themselves may be instructive for our industry. In any case, the lack of information on the rules of that sector at a time when the sector has already been slotted for adoption of the CDR is very concerning as will be argued below.

We understand the Australian Government to have already made policy decisions on:

- a three-phase introduction of a CDR for certain retail banking products provided by specified classes of banks and authorised deposit-taking institutions (ADIs);
- a CDR for the retail electricity sector, but has not yet determined the categories of data (other than household metering data) or classes of providers to be subject to this CDR;
- a CDR for the retail gas sector, but has not yet determined the categories of data (other than household metering data) or classes of providers to be subject to this CDR or phases for staging of implementation;
- a CDR for the retail telecommunications services sector, but has not yet determined the categories of data or classes of telecommunications service providers to be subject to this CDR or phases for staging of implementation (if any); and
- possibly (likely?) in the future and having regard to learnings and outcomes of the above implementations, other sector-specific CDRs.

The policy rationale for these policy decisions has not been fully articulated and is not at all apparent from the very broad and high-level factors listed in clause 56AD of the exposure draft that the Minister has to consider when taking a decision as to whether to designate a sector and determining consumer data rules.

Given the breadth of the potential application of the CDR Bill, Industry considers that the decision-making criteria, and the process for making instruments and consultation in relation to those, ought to be much more clearly articulated. Articulation within the CDR Bill of decision-making criteria and processes will not materially confine or restrict the policy makers ability to reshape supply-side competition, but at least ensure that any exercise of the regulatory authority to be conferred by the CDR Bill is transparent and not politically reactive, is developed in consultation with Industry, based on sound economic and regulatory principles, properly considers the dynamic and unpredictable features of relevant sectors and prospective applications of data, and builds consumer trust in sharing of data relating to them.

For each sector of the economy, when a CDR is proposed, a careful and transparent assessment should be required as to whether a particular implementation of the CDR for that sector would significantly enhance consumer welfare.

In each sector this assessment must include an investigation of different and possible unique characteristics of competition within that sector, the identification and analysis of any existing data portability mechanisms already in place within that sector, and empirical evidence as to whether then current information asymmetries with regards to holdings of particular data sets within that sector actually and measurably reduce consumer welfare. It is important to note that promotion of secondary stakeholders, such as providers of price comparison services, may not impact more deep-seated information asymmetries between

providers that also operate in practice as barriers to consumers in switching between providers.

As drafted, the law allows the Minister to designate sectors and the ACCC to specify data sets which include value-added data and other derived data, including inferred customer attributes, modelled scores, linked data and imputed or inferred data.

However, reduction of information asymmetries in some sectors or for some data sets (in particular derived value-added data sets) can be manifestly value-destroying where a data holder's investments in value-adding data derivations are appropriated to the benefit of under-investing or free-riding prospective data recipients. We also question the utility and value to consumers of derived and value-added data sets given that these will typically not be personally identifiable.

In summary, it is not self-evident or axiomatic that regulated reduction of information asymmetries through creation of a CDR in all or most sectors will enhance consumer welfare as it may well lead to the reduction in service offerings and in investment in the creation of data analytics and associated innovation. We would like to understand whether Government has carried out any analysis of existing data portability regimes (such as Midata in the UK) to identify the impact on consumer welfare. This would be useful information to make available in considering the introduction of a legislated CDR in Australia.

Therefore, the proposition that the CDR is beneficial and ought to be expanded to various sectors of our economy must be properly tested for each of the proposed sectors in consultation with that sector. Given the potential impact upon the future shape of competition in a sector, and the absence of ex post demonstration of market failure or anti-competitive effect, that testing should be ex ante, careful, transparent and appropriately-principled.

Consequently, the Associations request that a comprehensive, long-form Regulation Impact Statement (RIS) be prepared and published for and prior to the enactment of the CDR Bill itself as well as for and prior to the designation of a sector by the Minister as well as the rule-making for each sector through the ACCC. For avoidance of doubt it should be noted that publication of the entire RIS (within the limits of commercial confidentiality) is required, rather than the provision of an overview with figures the derivation of which cannot be assessed without access to the entire RIS.

2.2 Derived and value-added data

The draft CDR Bill proposes to enable wide discretion to define the type of data included within CDR data to the sector-specific ACCC rules. On the face of it, this approach seems reasonable as the type of data to be included would likely vary significantly across the different industries. However, the draft CDR Bill also proposes to extend CDR data to data that is *directly or indirectly derived* from other CDR data; and also, to include data that is *associated with* CDR data.[4]

The EM goes even further and points at the inclusion of all data that are derived from CDR data, and includes "*value-added data which is derived from CDR data*".[5]

The Associations do not agree with such a wide definition of CDR data on the basis that it would be detrimental to Industry, innovation and, consequently, also to consumers. Derived and value-added data is likely to be proprietary information of the data holder and any other party seeking access to such derived data should invest themselves to acquire the information.[6] The draft CDR Bill would likely have a large detrimental impact on the data analytics industry and the development and use of data analytics by other industries (such as communications). Where organisations investing resources into data analytics are prevented from making a commercial return on that investment, the investment is unlikely to

[4] Sections 56AF(2) and (3), Exposure Draft *Treasury Laws Amendment (Consumer Data Right) Bill 2018*
[5] p.13, para 1.50, Exposure Draft Explanatory Materials, *Treasury Law Amendment (Consumer Data Right) Bill 2018*
[6] p.17 Productivity Commission *Data Availability and Use*, Final Report

occur. We note that it would be a perverse outcome if the CDR regime decreased innovation and decreased data use.

The proposed definition is also inconsistent with the Inquiry recommendation; and in parts directly contradicts Recommendation 5.2 of the Inquiry. Recommendation 5.2, which was accepted by Government, specifically states that:

> "Data that is solely imputed by a data holder to be about a consumer may only be included with industry-negotiated agreement. Data that is collected for security purposes or is subject to intellectual property rights would be excluded from consumer data."[7]
>
> "Data that is not able to be re-identified to a consumer in the normal course of business within a data holder should not be considered consumer data."[8]

We note that the EM does not contain any explanation, let alone cost-benefit analysis, as to why an extended application of the CDR beyond the recommendations of the Inquiry has been proposed or would be beneficial.

Consequently, we request that the definition of CDR data should also explicitly state that data that is imputed, derived or value-added data not be considered CDR data. Further, data that is not able to be re-identified to a consumer in the normal course of business within a data holder should not be considered CDR data.

As it currently stands, the most radical regulatory intervention globally to create a consumer right to data portability is Article 20 of the European Union (EU) *General Data Protection Regulation*, as interpreted in the *Guidelines on the right to data portability* (16/EN WP 242 rev.01 dated 5 April 2017) as adopted by the former Article 29 Data Protection Working Party and now taken up by the replacement EU data regulator.

This right specifically excludes inferred data or derived data as created by a service provider, but potentially includes cleansed data and customer-specific aggregations and representations of transactional, customer-volunteered or customer-provided, and provider-observed data. As these regulations were only implemented in May 2018, we have not had sufficient time to determine the impact of this right on consumers in Europe and whether in fact it is leading to an increase in consumer welfare.

2.3 Pre-conditions to designation

The proposed regime does not include appropriate processes and safeguards that would be comparable to those developed over many years and many Inquires in relation to the creation of other access regimes to essential facilities of national significance.

The designation of a CDR for a sector could have an even more profound impact by reshaping the competition in a sector of the Australian economy than the creation of an access regime under Part IIA of the *Competition and Consumer Act 2010* (CCA).

Yet, the factors listed in Clause 56AD for consideration by the Minister in the consideration for designation of a sector bear little resemblance to the declaration criteria as set out in recently revised Clause 44CA of the CCA, and there are few process steps and safeguards to ensure that any decision as to a possible designation is properly informed and appropriately transparent and consultative.

The high-level factors listed in Clause 56AD of the CDR exposure draft ought to be redrafted to ensure that, before any CDR designation is made, there is appropriate consideration and examination of:

- the economic reasoning and empirical evidence for making the designation in the form of a cost-benefit analysis to demonstrate that the quantified benefits (to

[7] Recommendation 5.2, Productivity Commission *Data Availability and Use*, Final Report
[8] ibid.

consumers and other users of the scheme) outweigh the quantified costs (to entities required to participate in the scheme);
- the class of data holders and scope of data to be subject to that designation (and including the appropriate delination of derived data to be subject to that designation);
- identification and analysis of any existing data access and portability mechanisms within the sector;
- at least in outline, the proposed consumer data rules and proposed data standards to apply to the particular designated sector (if designated); and
- a statement and analysis of the counter-factual – what is likely to be the outcome in the relevant industry sector if the proposed designation is not made.

We submit that if the counter-factual cannot be fully articulated by the regulator with confidence and if the counter-factual would be reasonably likely be the outcome without a particular designation (as then articulated), it is not appropriate to make a designation.

2.4 Outline of proposed rules as part of the designation process

The Associations are concerned with the designation process and the lack of information that is available at the time a designation is being made.

It is not appropriate for a designation to be made for a sector, which has not already been the subject of a detailed and transparent consultation process, when the proposed consumer data rules and proposed data standards are unknown: a designation cannot be properly evaluated for economic and social impact without knowing (at least in outline) the scope of consumer data rules and data standards to apply to the designated data sets.

The EM states:

> "The consumer data rule making powers provide substantial scope for the ACCC to make rules about the CDR. This is because it is important to be able to tailor the consumer data rules to sectors and this design feature acknowledges that rules may differ between sectors. Variance between sectors will depend on the niche attributes of the sector and consumer data rules will be developed with sectoral differences in mind in order to ensure existing organisational arrangements, technological capabilities and infrastructure are able to be leveraged and harnessed as appropriate. Regulatory burden will also be managed via this process."[9]
>
> and
>
> "As noted above, it is important that the ACCC be able to make rules that can be tailored to vastly different sectors. While in the initial roll out it is expected that the banking, telecommunications and aspects of the energy sector will become designated and subject to the CDR, in the future it is possible that insurance information or retail loyalty cards, and the value-added data relating to those cards, may be subject to the CDR system."[10]

Industry contends that such "tailoring" is not a matter of detail as to how to implement a designation of well-known and defined data holders and data sets, but rather goes to the heart of whether and if so, how, a particular sector may be designated and which data holders and which data sets form part of it. Consequently, it is of utmost importance that the consideration of such matters forms part of the designation process and are not left to the rule-making that succeeds the designation.

[9] p.19, para 1.82, Exposure Draft Explanatory Materials, *Treasury Law Amendment (Consumer Data Right) Bill 2018*
[10] ibid

2.5 High-level factors for designation of a sector

The high-level factors listed in Clause 56AD might be better articulated as an examination of whether a proposed designation is likely to significantly increase consumer welfare (when compared to the counter-factual of absence of a designation)

by:

(1) facilitating comparison and switching between prospective providers of substitutable products and services by a significant number of customers; and

(2) promoting supply-side price and non-price competition between prospective providers of substitutable products and services;

without

(3) creating significant negative externalities such as:

a) loss of consumer trust in the data ecosystem, through creation of perceived or real privacy or security vulnerabilities or loss of customer control of data about them;
b) imposition of substantial and unjustified compliance costs on providers;
c) distorting fair competitive differentiation of product and service offerings by providers within a sector;
d) hampering investment and innovation into data analytics and associated forms of data manipulation and extrapolation;
e) impeding entry or expansion of providers within a sector; and/or
f) disadvantaging Australian providers to be subject to the CDR against offshore providers, new entrants or unconventional competitors such as product packagers.

2.6 Definition of CDR consumer

The draft CDR Bill proposes to apply the CDR to consumers, small and medium enterprises (SMEs), and large enterprises. The Inquiry, however, recommended (and Government accepted) a definition of consumer that did not extend to large enterprises. In fact, the Inquiry specifically recommended against such a proposal and highlighted that the limitation to SMEs is intentional:

> "A consumer for the purposes of consumer data should include a natural person and an ABN holder with a turnover of less than $3m pa in the most recent financial year".[11]
>
> "The scope of businesses able to exercise rights as consumers under the Comprehensive Right would be considerably narrower than the scope of 'consumers' under Australian consumer law. *This is intentional*."[12] [emphasis added]

Unfortunately, the EM does again not contain any explanation or cost-benefit analysis that would shed light on the reasons for this deviation from the Inquiry's recommendation.

In the absence of convincing arguments for this extended definition of a CDR consumer, Industry does not support the inclusion of large business.

2.7 Other issues

The Associations also suggest some more specific improvements to the CDR Bill as currently drafted.

We note in this regard that we do not consider that addressing any of these matters ought to be delegated to the EM as each of the suggested changes are fundamental to ensuring transparent and consistent legislation and regulation.

[11] Recommendation 5.2, Productivity Commission *Data Availability and Use*, Final Report
[12] ibid

Implementation timeframe:

Government plans to implement the first stage of the Open Banking CDR by July 2019. This timeframe in turn dictates the timeframes for consultation and the legislative process both of which appear rushed. As highlighted above, more consultation and rigorous analysis would be required and the decoupling of the consultation for the CDR Bill from the ACCC rule making framework is disappointing and not helpful.

It is important to develop a CDR regime that is capable of actually delivering the consumer benefits (where analysis has determined that such benefit would occur). Given the far-reaching implications of a CDR regime, including on individuals' privacy, it is not clear why such a short implementation timeframe has been chosen or would be justified.

The Associations are also concerned about the implications of this timeframe on the ACCC's ability to upscale the capabilities required to adequately deal with the CDR regime and the challenges it will pose.

ACCC report:

The Minister is obliged to consult the ACCC and the ACCC is required to report and publish its report in the course of taking a decision to make a designation.

However, there is no legislated assurance that the ACCC will publish a draft report for stakeholder consultation and comment. The ACCC ought to be obliged to publish a draft report and to allow a reasonable period for public comment before finalising the its report and submitting it to the Minister.

The final ACCC report to the Minister should be published for at least 60 days prior to the Minister making any designation. It is not appropriate that the ACCC may report to the Minister in confidence (and the Minister make a designation) without first publishing either a draft report or a final report.

The steps in the consultation process ought to include:

- an appropriately wide and transparent consultation that is specifically designated as canvassing the views on the designation of a sector for the purposes of the CDR conducted by the ACCC;
- publication of a draft report that expressly addresses the amended factors listed in Clause 56AD as described above;
- the ACCC requesting and considering further submissions and, after consideration of the feedback received through this consultative process, publishing a final report at the same time as it is provided to the Minister; and
- a minimum period of 60 days elapses before the Minister makes any designation.

Backdating:

CDR data to be subject to any CDR regime ought:

- not be backdated beyond at most two years before the designation enters into operation, and except for first phase of Open Banking CDR data, not before 1 July 2019; and
- to only include CDR data as reasonably available to a data holder (with no obligation to collect and hold pre-designation).

Consumer data rules and data standards:

An outline of the proposed consumer data rules and proposed data standards intended to apply to the particular designated sector should also be contained the ACCC's published report that is required prior to designation and published for consultation as outlined above.

All proposed consumer data rules and data standards must be subject to a requirement of extensive public publication including consultation on an exposure draft of the sector rules and standards.

Personal information:

The exposure draft proposes an extension of the definition of personal information from information *about* an individual to include personal information that *relates to* an individual. However, the intended effect of this extension has not been sufficiently articulated. For example, would a communication by a third party that describes another individual be enough to justify disclosure to that individual? How would the operator of a communications platform for example identify such a communication in seeking to respond to a CDR request? How would this apply to public figures who are regularly the topic of conversation and communication?

Furthermore, for online services where consumers may be interacting anonymously or using a pseudonym (which they are legally entitled to do under the *Privacy Act 1988*), how does Government anticipate that a CDR request be made to capture data about an anonymous individual or an individual using a pseudonym? An organisation's ability to ensure that data is accurate, up to date and complete when it is disclosed is compromised when that individual is using a pseudonym or is engaging anonymously with a service.

The proposed extension would introduce unnecessary confusion with regards to the application of now judicially considered and reasonably understood principles as to what constitutes personal information about an individual and, accordingly, when personal information can be considered deidentified.

In the absence of a clear and convincing explanation of the benefits of this extension, the CDR Bill should not include this extension of personal information.

Dual overlapping privacy regimes:

The exposure draft proposes the introduction of a set of Privacy Safeguards into the CCA. These will exist 'in parallel' with the privacy regime in the *Privacy Act 1988*, with the different regimes potentially applying to a single set of data at different stages of the transfer of data from a data holder to an accredited data recipient. This dual regime will be very difficult to implement and is likely to be confusing for consumers and businesses. At the very least, the relationship between the Australian Privacy Principles and the Privacy Safeguards, and the way in which they work together requires clarification to avoid creating uncertainties for organisations required to participate in the regime (data holders) and for the consumers using the system

Extraterritorial reach:

The CDR framework seeks to apply to data collected outside of Australia by or on behalf of an Australian citizen. How does the Government envisage the accreditation application process working for organisations established outside of Australia?

Implementation impact for smaller service providers:

The Associations are concerned that the cost of complying with the CDR regime may represent a larger burden (as a proportion of company size) for smaller service providers. This risks driving smaller players out of the market and acts as a disincentive for new small service providers entering the market, thereby reducing choice for consumers, which is likely to be more harmful for rural and remote areas where many smaller providers are competing very effectively.

The Associations are interested to understand how the cost of complying with the regime will be managed. We observe that paragraph 1.96 in the EM contemplates the ability for data rules to establish fees, however this appears to only apply in the context of value-added data or to compensate for acquisition of property. In addition, if take-up of the CDR regime is low (low transaction rate) then a fee-based compensation model may not offset a fixed implementation cost.

3. Conclusion

The Associations look forward to continued engagement with Government and other relevant stakeholders on the mutual objective to ensure consumers are informed and have appropriate access to their data and product data to make informed decisions regarding the purchase of products and service and are enabled to move between providers.

As highlighted in our submission, the Associations believe that the current exposure draft of the CDR Bill requires further consultation and substantial work to ensure that the legislation is fit for purpose for *all* sectors, enshrines adequate consultative mechanisms and impact assessments for future sector designations and does not diminish Industry's incentives to invest into the creation of derived and value-added data to the detriment of Industry and consumers.

We urge Government not to rush the development of the CDR Regime in the pursuit of deadlines and to further engage with all relevant stakeholders.

For any questions relating to this submission please contact Christiane Gillespie-Jones on 02 9959 9118 or at c.gillespiejones@commsalliance.com.au.