

18 May 2022

By email: CDRstatutoryreview@treasury.gov.au

Secretariat
Statutory Review of the Consumer Data Right
The Treasury
Langton Crescent
Parkes ACT 2600

Dear Elizabeth Kelly PSM

Statutory review of Consumer Data Right – endorsement of submission by Financial Rights Legal Centre

Thank you for the opportunity to respond to the issues paper for the Statutory Review of the Consumer Data Right (CDR). This review comes at a critical time, and provides an opportunity to re-focus the CDR on consumer outcomes. We are concerned that the CDR has targeted business uptake as its key measure of success, to the expense of consumer safety, privacy and benefit, and we recommend that this be remedied.

Consumer Action has had the benefit of reviewing the submission made by Financial Rights Legal Centre, and endorses the content of it.

We emphasise the need for an increased focus in the CDR development and rollout toward consumer safety and, in particular, the following issues raised in the submission by Financial Rights:

- the continued prioritisation of reducing friction and increasing efficiency has meant that consumer safety has taken a back seat, to an extent that there are very real risks of misuse of information resulting in consumer harm as a result;
- there is an over reliance on disclosure as a panacea for the risks posed by the CDR and the permissible uses of information. This places responsibility on the consumer for their use of a complex system. This will not work, and may result in people agreeing to the use of their data in ways they do not want or realise;
- metrics need to be established and tracked to assess the actual benefit that the CDR is delivering in terms of practical outcomes for consumers. The focus currently on the number of parties accredited is not a success metric of CDR;
- we hold significant concerns around the access “trusted advisers” are being provided in the CDR system, and the lack of oversight in this regard. An accreditation requirement is needed, or the category should be removed altogether;
- allowing use of CDR data for direct marketing with consent is a problematic approach. Consent on its own is not likely to reign in inappropriate marketing, due to the limitations on disclosure and the creation of a sense of obligation to accept this requirement; and

- we strongly support establishing a fiduciary duty standard for users of the CDR, with appropriate penalties for breaches. There are currently real ways data from the CDR may be misused. A fiduciary duty could greatly reduce the risk of this occurring with little to no negative consequence – it would simply introduce an obligation for organisations to use data in line with the underlying goal of the CDR.

Please contact Policy Officer **Tom Abourizk** at **Consumer Action Law Centre** on 03 9670 5088 or at tom.a@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,

CONSUMER ACTION LAW CENTRE

Gerard Brody | CEO

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.