



**Verifier response
6 May 2022**

Statutory Review of the Consumer Data Right

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

By email: CDRstatutoryreview@treasury.gov.au

Verifier Australia Pty Ltd

**Response to Issues Paper March 2022:
*Statutory Review of the Consumer Data Right***

About Verifier

Verifier is an Australian headquartered consumer-driven, consent-based data sharing platform built on Privacy-by-Design principles. Our goal is to put the consumer in the driver's seat with respect to their data – to enable them to access that data and to use it to get better outcomes. We respect the information security needs of consumers, our data sources, and our clients. Our clients include banks and non-bank financial institutions.

Verifier is a RegTech pioneer and thought leader in data-portability, and we are also an Accredited Data Recipient in the Australian Consumer Data Right regime.

About the Authors

Lisa Schutz is Verifier's founder and CEO. Verifier is a founding member of the RegTech Association in Australia. Lisa is a founding director of that organisation, formed in 2017, with the goal of establishing a centre of excellence in Australia for RegTech, for the benefit of the community and commerce.

Lisa is also a member of both the Data Standards Body Advisory Committee for Banking and for Energy - under the Consumer Data Right regime.

Debra Kruse is Verifier's Head of Legal and Commercial. Debra is an experienced lawyer whose expertise includes technology, intellectual property, consumer credit, privacy law, and the Consumer Data Right regime.

Lisa and Debra have spent significant time and effort in the consultation process leading to the Consumer Data Right regime and its application to Open Banking.

Verifier welcomes the opportunity to make a submission with respect to The Treasury's issues paper "*Statutory Review of the Consumer Data Right*".

Verifier's comments:***Question 1 - Are the objects of Part IVD of the Act fit-for-purpose and optimally aligned to facilitate economy-wide expansion of the CDR?***

Yes, but in practice these objectives are only partially being achieved with the current approach being taken – which approach assumes top-down prescription for all sectors.

Question 2- Do the existing assessment, designation, rule-making and standard-setting requirements of the CDR framework support future implementation of the CDR, including to government-held datasets?

Emphasis needs to shift to harmonisation rather than assume all fits under CDR prescriptive regime. With respect to data held by government agencies, harmonisation of their data sharing principle with the principles of the Consumer Data Right and leveraging the accreditation of Consumer Data Right data recipients, would be all that is required to accelerate data sharing by government agencies. See the [Confidential Attachment](#) to this submission for further information.

Question 3: Does the current operation of the statutory settings enable the development of CDR-powered products and services to benefit consumers?

Yes, with the caveat that data quality needs to be given equal attention to the attention given to data access. The data is of no use unless it is quality data that can inform decisions.

It is impossible, on a one by one, consented basis, to anticipate what will happen when any random case comes past. Data testing needs to be part of the process. Just like water quality testing happens with dams before we turn on our taps to drink it at the individual level.

Question 4: Could the CDR statutory framework be revised to facilitate direct to consumer data sharing opportunities and address potential risks?

Realistically, consumer access to data will be intermediated except for a small group of technically savvy individuals. However, Verifier is an example of a data subject focused intermediary who can get access to consumer data, on their behalf, in a secure, risk mitigated environment – to enhance consumer data sharing opportunities.

Since the goal of the Consumer Data Right regime is giving consumers access to their data, then no further legislation is needed. Direct to consumer data sharing occurs under the existing legislation when a person accesses Consumer Data Right data to pre-fill a form – or to put the data in a wallet or other service. What the consumer does with that data after that point should not be constrained in any way by the Consumer Data Right statutory framework.

Question 5: Are further statutory changes required to support the policy aims of CDR and the delivery of its functions?



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Yes. Serious consideration should be given to the pure object of Consumer Data Right, which was to provide “safe rails” as an alternative to screen-scraping. In the UK, growth in open banking accelerated when the EU ban on screen-scraping (part of the Payment Service Providers Directive (PSD2) reforms) was adopted.

The changes would be:

- (a) put a sunset on screen-scraping,
- (b) penalties for poor data quality and an operational mechanism for the ACCC to test it (why don't they have a data recipient licence and do “CDR samples” using real people),
- (c) abandon the twin privacy mechanism which creates a significant technical and compliance hurdle for data recipients. It is over-engineering, and
- (d) adopt a principles-based approach and loosen up on the consent as well. Why? Because black letter law driven screens and wording inhibit innovation and integration.

Sincerely
Lisa Schutz and Debra Kruse
Verifier