

7 September 2018

Data Republic

Submission on Treasury Laws Amendment (Consumer Data Right)

Data Republic broadly supports the recommendations outlined in the Exposure Draft of the Consumer Data Right. Data Republic looks forward to the introduction of the Consumer Data Right and the roll-out of Open Banking as the first iteration of this new model of data use, access and availability.

Data Republic is supportive of the Consumer Data Right as a vehicle for consumers to achieve choice, convenience and confidence in the use of their data. We look forward to the principles of the Consumer Data Right and Open Banking being applied to other sectors, both as a result of regulation and through the natural virality of the Open Banking design.

Set out below is our response to some of the recommendations in the Exposure Draft. However, we understand that the bulk of the key Consumer Data Right concepts (for example, reciprocity and accreditation) will be addressed in the “rules” and “standards” to be developed by the ACCC and the “Data Standards Body” respectively. We note that the exposure drafts for the “rules” and the “standards” have not been released at this stage. Any full assessment of the Consumer Data Right in whole, or the legislation in part, requires a review of the proposed “rules” and “standards”. Data Republic awaits their release and the opportunity to participate in further consultation processes to ensure the regulatory settings are optimal.

1. Proposed legislative Structure

Data Republic is supportive of the proposed legislative structure. We agree that the primary purpose of the Consumer Data Right and by extension Open Banking, is to achieve positive outcomes for consumers. We also support the continued role of the OAIC as the principle agency for protecting the rights of Australians with respect to privacy and personal information.

Data Republic is also supportive of the tiered approach to legislation, rules and standards. As a part of this tiered approach, we submit that the development of a well understood and universally accepted taxonomy of permitted uses for data and accreditation for access to data will be critical to the success of Open Banking and the Consumer Data Right more broadly. In our view, a taxonomy of this nature will increase data liquidity, resulting in a net benefit to the overall data economy.

2. Reflection of the APPs

Data Republic is supportive of the approach taken in the Exposure Draft to reflect the well-established principles-based approach of the Australian Privacy Principles.

We support the principle of informed consent provided in a clear and concise format, however, we are concerned that this approach coupled with limitations on the persistence of consent (i.e. consent must be re-obtained directly from the consumer after a period of time) may create a high volume of actionable, consent related communications with consumers that may in-turn result in “consent fatigue” and a negative impact on the consumer experience.

We recommend that Treasury consider the development of a taxonomy of ‘permitted data uses’ and accreditation which could determine different types of consent required in different circumstances.

3. Summary

Data Republic is excited to engage with Treasury and the ACCC as the Consumer Data Right progresses. We look forward to receiving the draft “rules” and “standards” and participating in further consultation.

Yours Sincerely,

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

Paul McCarney,
Chief Executive Officer,
Data Republic