

22 March 2018

**Data Republic**

**Response to Open Banking Implementation Review**

Data Republic broadly supports the recommendations outlined in the Farrell Review on Open Banking (**Open Banking Review**). Data Republic looks forward to the introduction of Open Banking as a vehicle for consumers to achieve choice, convenience and confidence in the use of their data in the banking sector. We also look forward to the principles of 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 Open Banking Review. In addition to these responses, Data Republic is excited to participate in the ongoing development of Open Banking in Australia and intends to engage in any consultation sessions, working groups or other similar programs.

1. **UK Open Banking as a model**

Data Republic agrees that we should look to the UK Open Banking framework for ideas, however we discourage taking a slavish approach to doing so. Australia should take the best parts of UK Open Banking, learn from the pain points and ensure that the result is fit-for-purpose in the Australian context. This will ensure the best outcome for Australian consumers, banks and the FinTech and Data business communities.

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.

We note that the review recommends a number of amendments to the Australian Privacy Policy (APPs) to accommodate Open Banking, specifically express informed consent. It is not clear whether these changes are intended to apply universally or only in the Open Banking context. 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. For example, certain permitted uses for data exchanges between fully accredited Open Banking participants may require a single consent for persistent data exchanges over an indefinite period of time (perhaps tied to the delivery of a product). Other permitted uses for a recipient with the lowest level of accreditation may require a higher level of consent that is required to be periodically refreshed.

1. **Accreditation**

As with the exchange of money, trust and integrity should be the paramount values driving participants’ engagement in Open Banking. The accreditation body and mechanism will be fundamental to establishing and maintaining trust and integrity in the Open Banking system. A well understood and transparent accreditation process will provide stability and confidence in the Open Banking system.

Data Republic is supportive of a model with a sliding scale of accreditation from full accreditation to minimal accreditation through which grades of accreditation are aligned to grades of data value/risk. The level of accreditation achieved should determine the types of data that the accredited participant is able to obtain through the Open Banking system. This approach will ameliorate the concern of poorly resourced companies (from a security perspective) obtaining high value data sets and potentially exposing the whole system to risks associated with breach.

An independent Open Banking body could play the role of facilitator to ensure minimally-accredited participants (most likely startups with limited resources) are still able to benefit from the opportunity of Open Banking. The Open Banking body could provide a secure intermediary function that provides answers to questions (i.e. aggregate data insights rather than the underlying raw data). This is similar to the approach suggested in the Open Banking Review to identify verification.

1. **Comprehensive Liability Framework**

We note that the review recommends the implementation of a “Comprehensive Liability Framework”. It is unclear whether this will be a contractual legal framework that Open Banking participants opt-in to or if Treasury envisages amending existing regulatory frameworks to more clearly apportion liability.

At present, Data Republic provides a consistent and auditable legal framework and technology platform for intra-organisation data exchange. The Data Republic platform is market-tested and currently in use by a variety of participants across multiple sectors. It has been our experience that this is an approach which works well and ensures that participants can confidently exchange high-value data.

1. **Reciprocity**

We support the recommendation that reciprocity of data exchange is a condition of participation in Open Banking. This principle ensures a level of equity between participants by ensuring that all organisations that obtain a commercial benefit from the data made available through Open Banking also contribute to pool of data available through Open Banking. This measure will greatly enhance the value and liquidity of the data market in Australia.

We look forward to Treasury clarifying whether the obligation for reciprocity will accelerate the roll-out period for Open Banking participants which are not otherwise expected to participate in the first roll-out (i.e. non-big 4 ADIs). We submit that this should be the case, as should be the case for non-banking sector organisations which obtain data through Open Banking. Such an approach would greatly enhance the viral nature of the Open Banking framework, enhancing the value and liquidity of the data market in Australia, and by extension, positive outcomes for consumers.

1. **Additional Suggestions**

We submit that Treasury should consider the current legislative prohibition on the use of Government Related Identifiers (GRIs) by organisations as universal identifiers. Data Republic does not suggest that organisations should be permitted to use GRIs as universal identifiers, however we submit that a purpose-built form of GRI could be considered as a means of ensuring identity verification and the validation of personal information related data exchanges.

In such circumstances, the purpose-built form of GRI would need to be stored and transferred according to the highest levels of security and risk minimisation. Treasury would also need to consider limitations on the kinds of uses to which such an identifier could be put. However, in our view, a universally acknowledged identifier of this type would greatly enhance data quality and analysis, ultimately providing better outcomes for consumers and business alike.

We note that similar approaches have been adopted in other jurisdictions around the world, for example Estonia, Singapore and Germany.

Yours Sincerely,



Paul McCarney,

Chief Executive Officer,

Data Republic