Quantium welcomes this opportunity to comment upon the draft *Treasury Laws Amendment (Consumer Data Right) Bill* *2018* (CDR Bill).

Our primary concern is that the CDR Bill grants too much flexibility and uncertainty regarding the declaration of derived data. In our view, this could allow significant value-added data to be brought within the scope of the CDR Bill. And any required transfer of this value-added data between competitors is likely to stifle innovation.

From the recent briefings conducted by Treasury, we understand that the Government’s intention is that any designated data sets should not extend beyond data that is already reported to, or which is in the hands of, a customer. But this is not currently reflected in the CDR Bill.

As the CDR Bill currently stands, the Treasurer may designate a sector of the Australian economy to which the consumer data right will apply following limited industry consultation, and before any proposed consumer data rules for that sector are released. We would ask that any such designation only be made following extensive industry engagement, as there will always be numerous industry factors to be taken into account when considering what data might be included in any CDR designation.

Consistent with these views, we believe that the CDR Bill should provide clear guidance as to what data is subject to the CDR Bill and what data is not. Our guidance in relation to how this might be approached is as follows:

* No value-added data about customers which is created by data holders using their own intellectual property and resources (e.g. data that is created by a data holder to infer the likelihood of interests, behaviours, or preferences of its customers) should be subject to the CDR Bill. Such value-added data is highly valuable proprietary information, with such value created through significant investment in data collection, enrichment and analytics. In our view, it is essential that the CDR Bill clearly articulates that the investment by data holders in the creation of value-added data will not be compromised or appropriated through its designation as a CDR data set.
* Data that is volunteered by a customer could be included as a CDR data set under the CDR Bill, but only where the information provided by the customer is consistently collected by, and volunteered to, all data holders in that sector. However, where an individual data holder has made a significant investment in the capture, checking and maintenance of more detailed customer data, it is not appropriate in our view to include this more detailed customer data within the CDR Bill.
* Data that is provided by a data holder to a customer (e.g. via invoices, statements or transaction records) could be included as CDR data under the CDR Bill, but only where that information does not comprise value-added data of the data holder. Included data might encompass basic aggregations or representations of data or might format data in a way that the customer may find easier to understand or use. But where the data holder has used its own intellectual property and investment to provide additional, value-added data to the customer, this value-added data must be excluded from the scope of the CDR Bill.

The current procedural safeguards in the CDR Bill are not enough to ensure that value-added data sets are not designated as CDR data for a particular sector. The above guidance is intended to provide a workable boundary for data that could be made subject to a designated CDR data. But it is essential that the CDR Bill makes it clear that value-added data is expressly excluded.

We would be delighted to expand upon, or clarify, any aspect of this submission.

**Ben Ashton  
General Counsel  
12 September 2018**