

Consumer Data Right - Fact Sheet

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What is the Consumer Data Right (CDR)? How does it relate to Open Banking (OB)?

The CDR will eventually give customers a right to direct that their data be shared with others they trust, so that they can benefit from its value.

Open Banking is the name for the CDR as it applies to the banking sector, the first sector to which the general right will apply.

In which sectors will the CDR be implemented?

The CDR could eventually be an economy-wide right, applied sector-by-sector where there was a benefit in doing so, beginning in the banking, energy and telecommunications sectors. Future sectors subject to the CDR would be designated by the Treasurer based on advice from the ACCC and OAIC on the costs and benefits of including them.

How will the CDR be regulated?

As announced on 26 November 2017, by the Hon Angus Taylor MP, the then Assistant Minister for Cities and Digital Transformation, the CDR is intended as an economy-wide right, to be applied sector-by-sector on the designation of the Treasurer. The Treasurer will be leading the development of the CDR, with the design of the broader CDR informed by the Government's response to the recommendations of the Open Banking Review.

As part of its response to the Productivity Commission's *Inquiry into Data Availability and Use* the Government has committed to a dual-regulator model, involving the Australian Competition and Consumer Commission (ACCC) as the lead regulator, with strong support from the Office of the Australian Information Commissioner (OAIC).

The ACCC will seek to promote competition and customer focussed outcomes within the system, while the OAIC will aim to ensure that strong privacy protections are a fundamental design feature of the CDR. To set technical standards for the CDR, the Government will engage in a process of close collaboration with designated sectors, the technology community, and consumer and privacy advocates.

What does the CDR seek to achieve? What are the benefits?

The CDR will improve customer choice and convenience by allowing data to be shared with third parties, such as comparison sites. The improved ability to compare will increase a customer's ability to either negotiate better deals with their current providers or switch products if they cannot do so, thus obtaining greater value for money, increasing competition in participating sectors.

The CDR will improve the flow of information in the economy, encouraging the development of new products and applications that reach more customers and are better tailored to their needs. This should support data driven economic growth and create new high value jobs in Australia.

What are the next steps for the banking sector?

The Government is currently considering its response to the Open Banking Review and is seeking submissions on the practical implications of the recommendations. The Government encourages all those who are interested in Open Banking and the CDR, including from the energy and telecommunications sectors, to participate in this process.

The implementation of the CDR will be informed by the Government's response to the findings of the Open Banking Review. The Treasurer has also asked that Scott Farrell continue his work beyond the Open Banking Review to consider and advise on how industry and Government can work cooperatively to build an adaptable and efficient system that is not only safe, but also supports innovation.

What are the next steps for the energy sector?

A data right currently exists in the energy sector, allowing customers to direct that a data recipient can obtain their electricity consumption data. However, concerns have been raised regarding its effectiveness due to the absence of detailed rules relating to data provision, data transfer and customer consent.

As such, the Treasury is currently working with the Department of Energy and Environment to develop a model for implementation of the CDR in the energy sector.

What are the next steps for the telecommunications sector and new sectors?

With the announcement of the CDR in late 2017, the immediate focus of the Government is to consider the design and implementation of the economy-wide regulatory framework. Once its design and implementation has progressed sufficiently in late 2018, the Government will examine the application of the CDR to the telecommunications sector.

How did the CDR and Open Banking come about?

The Murray, Harper, Coleman, and Finkel inquiries all recommended that Australia develop a right and standards for customers to access and transfer their information in a useable format. In addition, in May 2017, the Government received the Productivity Commission's (PC) report on their *Inquiry into Data Availability and Use*. The report included a set of 41 recommendations, including for the creation of a new economy-wide Comprehensive Data Right.

In the 2017-18 Budget, the Treasurer announced that Open Banking will be introduced in Australia and commissioned an Open Banking Review to recommend the best approach to implement it.

On 26 November 2017, the Government announced that the CDR will be implemented as a measure for customers to harness their digital data, with its design to be informed by the report of the Open Banking Review.

The report of the Open Banking Review was released by the Treasurer for a six week consultation. Further consultations will occur on the text of any legislative proposals and supporting regulations.

What are some examples of developments that may arise under CDR?

Specific examples of the benefits of a CDR might include:

- Banking applications that analyse credit card customers spending and repayment behaviours to identify the best product for an individual, saving them money on high fees or obtaining better interest rates.
- Applications that help customers understand and manage their energy use to save money on their power bills.
- Comparison websites that identify a more appropriate internet or mobile phone plan taking into account each customer's actual usage and budget.

How is the CDR different from Open Data?

In general, 'open data' refers to promoting the availability and use of aggregated and de-identified public and private datasets for the benefit of society. Commonwealth Government open data

initiatives tend to focus on opening up government held datasets for uses such as academic research.

The CDR differs from other Commonwealth open data initiatives because it entitles customers to share data arising from their own interactions with service providers.

The balance of the Productivity Commission's recommendations relating to open data are still under consideration by the Government.

Open Banking Review recommendations

The Government is seeking your views on the recommendations of the Open Banking Review, before making a decision on its design.

What type of data does the review recommend Open Banking apply to? Who does the review recommend be regulated under Open Banking?

The review recommends that:

- All banking customers should have the right to access their information regarding designated accounts.
- The right should apply to all banking products which are widely available to the general public. This includes credit cards, mortgages, and savings accounts. A full list of accounts is on page 37 of the report of the Open Banking Review.
- The Big 4 banks should be mandated to share their data upon commencement. The review recommends that all other ADI's should also be mandated a year after commencement.
- Only mandated parties and accredited data recipients should be able to receive data under the CDR, with the ACCC to determine accreditation requirements.

What does the Open Banking Review recommend regarding how the CDR framework should operate?

How will future sectors be designated?

The Review supports the Treasurer being responsible for designating sectors that the CDR applies to. It recommends that the Treasurer should designate sectors on the basis of advice from the ACCC and OAIC. The Review recommends that this advice would be made publicly available.

Who will be the regulators?

The Review supports a dual-regulator model, involving the Australian Competition and Consumer Commission (ACCC) and the Office of the Australian Information Commissioner (OAIC).

It recommends that the ACCC should be responsible for assessing sectors the CDR should apply to, writing rules, setting accreditation criteria, strategic enforcement and overseeing the Data Standards Body.

It recommends that the OAIC should be primarily responsible for individual and SME complaint handling. The OAIC should also be responsible for advising the Treasurer and the ACCC on privacy implications of designating sectors, assisting the ACCC in ensuring that the CDR Rules are compliant with the Privacy Act, and certifying that the standards are compliant with the Privacy Act.

How will industry work out how to comply with the CDR obligations?

The Review recommends that a Data Standards Body should be responsible for setting standards for data transfer including formats, transmission, standards and IT security standards. The Review also recommends that the body facilitate development of technical standards through close collaboration between industry and government.

The ACCC should then assess the standards for compliance with the CDR rules, while the OAIC would assess the standards for compliance with the *Privacy Act 1988*. If the standards are certified as compliant with both the CDR rules and the Privacy Act, they would then come into effect.

How will personal data and consumer information be protected?

The Government is committed to a high level of privacy protection and information security being a non-negotiable element of the CDR system.

A series of measures to ensure that strong protections are a fundamental design feature have been recommended by the Review. These include the accreditation of data recipients; the introduction of transfer, security and data standards; a strong role for the OAIC in advising on and enforcing privacy protections; and a range of avenues for customers to seek meaningful remedies for breaches.