



Friday 23rd March 2018

Open Banking Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600
Via email to: data@treasury.gov.au

RE: SUBMISSION TO THE OPEN BANKING REVIEW PROCESS

Dear sir/madam,

Standards Australia welcomes the opportunity to respond to the Report of the *Review into Open Banking* (The Report). By way of introduction, we are Australia's National Standards Body, with a 96 year history in developing and adopting standards to meet Australia's economic, social and community needs.

We facilitate Australian participation in International Standards development, as Australia's voice and vote to both the ISO (International Organization for Standardization) and IEC (International Electrotechnical Commission). We do not enforce, regulate or certify compliance with these Standards.

We form technical committees by bringing together relevant parties and stakeholders. Through a process of consensus, these committees develop standards for Australia's net benefit. We also undertake stakeholder engagement activities to support Australian government agencies and industry partners, with identifying, developing and adopting standards for the Australian context. The work of Standards Australia enhances the nation's economic efficiency, international competitiveness and contributes to community demand for a safe and sustainable environment.

For the purposes of this submission, we will limit our comments to those aspects of the Report that relate to our process and how we, as an organisation, might be able to play a constructive role in assisting with the implementation of the Report's recommendations. We recognise that the Report's findings are subject to detailed consideration by the Australian Government and, ultimately, implementation is at the discretion of the government of the day.

1. Implementing the Consumer Data Right (CDR)

General comments on the proposed model

We commend the reviewer and review team for advocating for the development of standards as the appropriate mechanism, at a technical level, to effect change in data control and ownership for the benefit of consumers in Australia. Standards have been used as an instrument to effect regulatory reform to ensure safety, drive behaviour change and

enable competition in the Australian and other markets, although this is not necessarily widely recognised.¹

For example, the Water Efficiency Labelling Scheme (WELS), and the associated testing standard, which Standards Australia was instrumental in developing, has been pivotal in driving consumer behaviour change around the purchase of white goods, with flow-on effects for water sustainability.

This has also led to high rates of public recognition. Critically, it is underpinned by statutory architecture, in the form of the *Water Efficiency Labelling System Act (2005)*.² Additionally, in NSW, the Standard on toy safety we have developed is referenced in State regulations and enforced. This has resulted, through a decision by government, in the physical destruction of some toys deemed unsafe for public sale.³ Again, it is underpinned by a coherent regulatory approach, which references the Australian Standards we have developed.

We would argue that the models we have referenced above, which are already in operation, illustrate the utility of the framework for reform proposed in the Report (which encompasses legislative amendments, the development of associated rules and the development of relevant standards). Indeed, they are analogous to the model the Reports recommends, in our view.

Recommendation 2.6 - The creation of a Data Standards Body

We note the recommendation of the Report pertaining to a Data Standards Body (p. 21). In our view, such a body should be informed by best practice standards development processes, and a broad commitment to the development of common standards, that take into account a broad range of interests. Necessarily, this entails ongoing engagement with the National Standards Body.

(a) Participation of stakeholders

The Report envisages a framework for the formal referencing of standards developed by this body, namely by the ACCC, and we are of the view that stakeholder participation considerations need to be central to this process.

This is consistent with the *WTO Code of Good Practice for the Preparation, Adoption and Application of Standards*, to which Australia is a party, and which envisages a central role for National Standards Bodies in facilitating such engagement.⁴

Specifically, these considerations include: (1) how will different stakeholder's views be accommodated; and; (2) how will they be able to *see* their interests represented formally

¹ Wallach, W. & Marchant, G.E. (2018). An Agile Ethical/Legal Model for the International and National Governance of AI and Robotics, *Association for the Advancement of Artificial Intelligence*, accessed 19/03/2018 from: http://www.aies-conference.com/wp-content/papers/main/AIES_2018_paper_77.pdf

² Australian Government. (2015). *Water Efficiency Labelling and Standards scheme review*. Canberra: Australian Government.

³ NSW Fair Trading (2017). *Christmas Product Safety Survey 2017*. Accessed 12/03/2018 from: http://www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/Consumers/Christmas_Product_Safety_Survey_2017.pdf

⁴ WTO Agreement on Technical Barriers to Trade, Annex 3, accessed 19/03/2018 from: https://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm#articleIV

through the process, resulting in the development and adoption of specific standards. This is vital to the ongoing legitimacy of the standards setting process.

We understand the concerns of different stakeholders in the process, who have existing relationships with their customers and commitments to privacy. We also appreciate the need to ensure choice on the part of customers. Reconciling these views will be critical throughout the process. For this reason, robust consultative processes are necessary. We stand ready to support this process, drawing on our existing areas of expertise.

(b) Envisaged timeframes for implementation

We note the comments attributed to the Treasurer, subsequent to the release of the Report, that the Open Banking regime will take effect from 1st July 2019.⁵ This implies that legislative reform, standards development and referencing, via the rules and legislation, would take place in the months preceding this.

We are of the view that the timeframe envisaged for standards development is ambitious, noting the United Kingdom experience.⁶ A further factor, for consideration by Treasury, is that the period for standards development and regulatory call-up may overlap with a government caretaker mode, from an administrative perspective. These are not necessarily impediments, but must be actively considered from an implementation perspective.

(c) Our potential supporting role

Standards Australia is willing, and able, to play a constructive role in the establishment of a Data Standards Body, working alongside Data61. How this would work in practice would be the subject of consultation but may include, for example, the provision of secretariat support and advisory services (including managing an initial exhaustive consultation process on the technical details of proposed standards, supporting a Working Group to come to agreement and administering ballots), dependent on discussions with the decision maker(s). This was suggested, via recommendation 2.6, as a potential option in the interim, noting that the final form and function(s) of the Data Standards Body are being resolved.

2. An International Standard for consumer data rights?

As Australia's representative (voice and vote) to the ISO, we draw your attention to the possibility of the development of an International Standard on consumer data rights. This could leverage work already under way under the ambit of the CDR reforms, and be formulated to reflect broader stakeholder needs as discussions evolve within Australia. In future years, if there are global developments and countries feel inclined to adopt such an International Standard in sectors of their market, it would be prudent for Australia to lead this work, to ensure our interests are protected and promoted. Australians need to be both *consumers* of any such Standards and active *contributors* to them. This represents an

⁵ Eyres, J. (2018). 'Scott Morrison says data sharing regime will 'revolutionise' banking', *Australian Financial Review*, accessed 19/03/2018 from: <http://www.afr.com/business/banking-and-finance/scott-morrison-says-data-sharing-regime-will-revolutionise-banking-20180208-h0vs5r>

⁶ Peachey, K. (2018). 'Nationwide delays Open Banking launch', accessed 08/03/2018 from <http://www.bbc.com/news/business-42691661>

opportunity to capture a point of difference in the proposed CDR regime, namely its potential reach and scope, and to lead internationally in the national interest. Additionally, this would demonstrate Australia's active support for the development and use of trusted International Standards wherever possible.

Such a Standard could be developed through a New Work Item Proposal (NWIP) to the ISO or ISO/IEC Joint Technical Committee (JTC) 1, which Standards Australia would be willing to lead, on behalf of the Australian Government, industry and consumers. In our view, Standards Australia, as the National Standards Body, is uniquely positioned to undertake this work, with appropriate support from the Australian Government. We refer to our previous experience in leading the development of international blockchain standards, again through the ISO.

3. Further contact

For further questions in relation to this submission, please do not hesitate to contact Dr Jed Homer, Policy Manager, on 0408 496 848 or via email at: jed.homer@standards.org.au

Yours sincerely



Dr Bronwyn Evans
Chief Executive Officer