



About Mastercard

Mastercard is a technology company in the global payments industry that connects consumers, financial institutions, merchants, governments and businesses worldwide, enabling them to use electronic forms of payment instead of cash and cheques.

A typical transaction on our network involves four participants in addition to us: the cardholder, merchant (a business who accepts payment for goods or services provided), issuer (the cardholder's financial institution) and acquirer (the merchant's financial institution).

Through the Mastercard Network, we enable the routing of a transaction to the issuer for its approval. After the transaction is authorised by the issuer, we help to settle the transaction by facilitating the exchange of funds between parties via settlement banks chosen by us and our customers.

Mastercard does not issue cards, extend credit, determine or receive revenue from interest rates or other fees charged to cardholders by issuers, or establish the rates charged by acquirers in connection with merchants' acceptance of our branded cards. In most cases, cardholder relationships belong to, and are managed by, our bank or financial institution customers.

Our response to the Consumer Data Right

We have limited our response to the Consumer Data Right (CDR) relating to banking data, referred to as "Open Banking", which will form the first phase of the CDR implementation.

As part of Open Banking, we understand that "service providers will be required to give customers open access to data on their product terms and conditions, transactions and usage, coupled with the ability to direct that their data be shared with other service providers". This is expected to provide better service for customers and provide them, with greater mobility to find products more suited to their needs.

Mastercard supports the CDR in improving access and transparency to facilitate better customer outcomes in the financial services sector. It is important that any changes to legislation ensure that the highest level of data security and privacy protections are maintained throughout this transition. However, it is important to understand the nature of the consumer data held by participants in the payments value chain:

Insufficient data available to payments networks

Payments networks do not have access to the full scope of data afforded under the CDR. Mastercard's customers are issuing banks, and we do not have a direct relationship with bank customers that hold Mastercard scheme cards.

When processing transactions, Mastercard cannot identify exactly what goods or services are being purchased by cardholders, and therefore cannot provide comprehensive consumer transaction data. In facilitating a credit or debit card transaction, Mastercard only has limited data to process the transaction. This includes the date and time of the transaction, the amount of the transaction, the names of the issuing and acquiring banks, the account number, and the name of the merchant. Mastercard does not have the Know Your Customer or contact details of the cardholder, the account balance, or repayment history.

As described above, the Mastercard Network enables the routing of a transaction to an issuing bank for approval. Once approved, we help to settle the transaction by facilitating the exchange of funds between parties via settlement banks. Our bank customers have access to the kinds of data envisaged by the CDR. We will support our customers implement the Right to the extent we can.

Specific comments on the Bill's exposure draft

While Mastercard supports the overall sentiment of the Bill, we have identified selected areas which could be improved to enhance the effectiveness of the current provisions.

Designated sectors

Mastercard's specific concerns are based on the capacity of the Minister to prescribe "designated sectors" following consultation with the Commission under section 56AC(2) of the Bill.

While Mastercard does not oppose the capacity of the Minister to use this discretionary power, we suggest the inclusion of measures to ensure that the relevant sectoral regulators are also involved in consultation with the Minister throughout this process.

In our reading, the Minister's consultation at this stage is limited to the Australian Competition and Consumer Commission and the Office of the Australian Information Commissioner.

Given the broad remit of the Bill, Mastercard suggests that the consultation which the Minister must undertake under s56AD(2) should include any person who is the sectoral regulator of any person or class of person proposed to be designated in the instrument.

In addition, Mastercard proposes that the factors that the Minister must consider under s56AD(1)(a) should include the role played by the sector proposed to be designated and each person or class of person to whom the proposed delegation relates.

Further, the tasks that the Minister must undertake under s56AD should include giving separate and specific consideration to designation in the context of (i) the exercise by a CDR Consumer of the Consumer Data Right and (ii) the right of any third party to make a request for CDR data for which there are no CDR consumers arising under consumer data rules that are made with reference to s56AA and s56BD.

Access to derived data

The Bill allows an individual to access information that is wholly or partly derived from other CDR data (derived data) under section 56AF(2). Privacy protections built into the Bill require that the Minister must consider (amongst other things) the privacy and confidentiality impact before designating a sector as subject to the right.

In our understanding, it would be possible for the sharing of derived data which includes scores and models, that goes towards identifying potential financial or security risks, and allowing access to this data. This may increase the risks to the data holder and the consumer.

In Mastercard's view, the Bill should also afford consideration to the risks to overall security as a result of access to data, on top of the existing privacy and confidentiality impacts. We

also suggest that the Bill be updated to qualify the right so that it does not result in the creation of disincentives for innovation by data holders.

Mastercard considers the approach put forward by the Open Banking Review as a potential approach for consideration by Treasury. The Open Banking Review recommended that “material enhancement by the application of insights, analysis or transformation by the data holder should not be included in the scope of Open Banking” (Recommendation 3.3) and identified a limited use case for disclosing limited information in relation to identity verification (Recommendation 3.4).

Accredited data recipients

As the Bill stands, accreditation of data recipients under section sections 56BB(c) and 56BD states that consumer data rules ‘may’ provide for criteria for a person to be accredited.

Mastercard recommends the introduction of a mandatory requirement for personal accreditation, to ensure data protection. In our view, accreditation should include a clear statement of the person’s commercial objectives as a Data Recipient Accreditor and proof of regulatory status and good standing in respect of carrying on such commercial activity.

Consumer Data Rules

Mastercard appreciates the opportunity to comment on the Bill and looks forward to the release of the Consumer Data Rules in due course. We would be pleased to meet with Treasury to provide our insights on the Consumer Data Rules or provide Treasury with further detail on the contents of our submission.