



AIIA Response to Questions on Notice

Raised at the Senate Economics Legislation Committee Public Hearing (5 March 2019) on the Treasury Laws Amendment (Consumer Data Right) Bill 2019.

13 March 2019

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Senator Jane Hume, Chair
Senate Standing Committees on Economics
Parliament House
CANBERRA ACT 2600

Dear Chair,

AIIA Response to Questions on Notice

Thank you for your invitation to attend the Senate Economics Legislation Committee public hearing on 5 March 2019 concerning the Treasury Laws Amendment (Consumer Data Right) Bill 2019.

Below are AIIA's response to the questions taken on notice at this hearing.

Yours sincerely,

Kishwar Rahman
GM Policy and Advocacy
Australian Information and Industry Association

Question 1

[P 59] CHAIR: Ms Pavan, in your submission you noted: *The telecommunications sector, does not support the imposition of a CDR ‘template’, developed to suit the characteristics of the banking and energy sectors— and you reiterated that in your opening statement. This obviously was a concern that was also shared by the Communications Alliance.*

In the context of consumer data, what is it that sets the telecommunications sector apart from the energy and banking sectors?

Response Q1

- A. In the context of the Consumer Data Right, the following characteristics set the telecommunications sector apart from the energy and the banking sectors:
 - the telecommunications industry already has a number of mechanisms for consumers to have access to a large range of data that relates to them. For example, under the Telecommunications Consumer Protections Code (TCP Code), which is enforceable by the Australian Communications and Media Authority (ACMA), Carriage Service Providers (CSPs) must provide their customers with detailed billing data and itemised charges in a form that customers can read, understand, store and reproduce for up to six years;
 - the TCP Code and the Telecommunications (NBN Consumer Information) Industry Standard 2018 both contain provisions that require CSPs to provide their customers with relatively standardised product information prior to sale;
 - most telecommunication providers also offer month-to-month plans, thereby minimising transaction costs when moving to another provider;
 - most importantly, the enforceable Mobile Number Portability Code (and Local Number Portability Code) require CSPs to facilitate the porting of consumers' phone numbers, where technically possible. This allows consumers to move between providers with minimal effort, delay and transaction costs. This contrasts the banking industry where a transfer of account numbers from one bank to another is not possible, thereby creating significant barriers to moving between banking institutions; and
 - in addition, 'over the top' (OTT) service providers already offer innovative controls and dashboards, and facilitate data portability, to their customers. For example, the Google Account website <https://myaccount.google.com/>.
- B. Consequently, AIIA members note that to a large degree, the CDR objectives are already being achieved by existing Industry practice and legislative and regulatory obligations.

Therefore, AIIA members recommends that any process to translate the Open Banking and general CDR regime into an 'Open Telecoms' is preceded with an analysis of existing data access and sharing mechanisms that apply to the telecommunications sector in order to identify any potential gaps that may need closing.

Where there are such gaps, the question also needs to be asked as to whether the CDR regime is best suited to address this gap.

For example, consumers already hold a vast amount of data that relates to them and their usage of telecommunications services on their smart phones. This must be considered in the context of Australia having one of the highest smart phone penetrations in the world. This data often goes well beyond the data that their CSP holds as it includes data from over-the-top applications, such as WhatsApp and Viber. It is well conceivable that access to the data types envisaged for access and sharing by the CDR regime could be facilitated through an app on the

consumer's phone rather than a transfer solution via a (costly) application programming interface (API).

END Q1

Question 2

[P 59] Senator KETTER: Ms Pavan, you're urging the government not to rush the application of the CDR legislation to the telecommunications sector.

Do you have an ideal time frame in mind as to how this should roll out? Once we get through the banking part of it, what are you looking at as far as time lines for telecommunications are concerned?

Response Q2

- A. The telecommunications sector is very competitive and, as highlighted in our response to Q1 above, it already provides easy access to a range of types of data. In this context, the business case on the benefits of applying the CDR regime to the telecommunications sector is yet to be developed.
- B. Whether the CDR should apply to the telecommunication sector and the timing of such application is dependent on the data/evidence collected from the activities detailed below. The purpose of the activities is to determine whether the data and evidence collected actually supports the roll out of the CDR to the telecommunications sector. The activities include:
 - a gap analysis of existing legislation that already applies to the telecommunications sector, as well as voluntary industry initiatives already being undertaken, to understand the overlap and need for why the CDR should apply to the telecommunications sector;
 - a CDR Privacy Impact Assessment on the impact of the CDR on the telecommunications sector by an independent, qualified and experienced practitioner/s;
 - preparation and publishing of a comprehensive Long Form Regulation Impact Statement (RIS) for the telecommunications sector. This should include a cost benefit perspective and analysis of alternative options. Many alternative options are already in place and already achieve the objectives of the CDR regime.

END Q2

Question 3

[p 59-60] Senator KETTER: When you talk about an iterative approach to the rollout, I'm interpreting that to mean that you'd rather see banking roll out and then take stock of what that has meant.

Ms Pavan: And then re-evaluate it.

Senator KETTER: And re-evaluate for subsequent sectors. Am I interpreting that correctly?

Response Q3

- A. Failure to meet consumer and business expectations and bad initial consumer experience with CDR transactions and services in the banking sector will have a negative impact on subsequent sectorial rollouts of the CDR.
- B. What AIIA is proposing is a human centred design approach to the development and implementation of the CDR framework. As this is a new approach to law making, AIIA recommends that the implementation of the CDR regulatory framework should explicitly include iterative review points to force a more human centred design approach in the implementation of the framework to sectors beyond the banking sector.
- C. These reviews should include consideration of technological advancements and the adequacy of existing regulatory frameworks that already apply to the telecommunication sector. Such reviews should also canvas the possibility of a business case that does not support the roll out of the CDR to the telecommunications sector.
- D. Data collected from user research (consumer and businesses) and lessons learnt from the open banking sector should undergo a test for relevance and applicability to the telecommunications sector under the CDR regime.
- E. It follows that for each sector of the economy a careful and transparent user assessment should be undertaken so as to evaluate whether a particular implementation of the CDR for that sector is significantly enhancing consumer welfare. The alternative is the implementation of a framework that does not meet consumer needs.

END Q3