

Select Committee on Financial Technology and Regulatory Technology - Issues Paper 2

TrueLayer submission - Further Evidence on Notice

22 February 2021



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By email to: fintech.sen@aph.gov.au

Subject: TrueLayer Submission - Select Committee on Financial Technology and Regulatory Technology Issue Paper 2 - Request for Further Evidence

Thank you for the opportunity to provide further evidence to the Senate Select Committee on Financial Technology and Regulatory Technology (“the Committee”) on the 12th of February in Sydney.

Following this evidence, Senator Bragg requested we take on notice the provision of further evidence with regards to the interoperability of the Consumer Data Right with the U.K. and EU Open Banking Regulations.

We also refer to our previous submission on the 11th December.

About TrueLayer

TrueLayer is a UK-headquartered firm, founded in 2016 and authorised by the UK’s Financial Conduct Authority (“FCA”). Our platform allows clients to access their customers’ banking data and initiate payments from their customers’ accounts in a uniform, simple, and secure manner by integrating our Application Programming Interface (“API”). We provide consumers with payment and data services through our clients’ platform. Our clients tend to be FinTechs and high-growth tech companies, as well as larger financial institutions and online merchants.

We thank you again for the opportunity to contribute at this important time for the Consumer Data Right and more broadly Fintech & Regtech in Australia.

Kind Regards

TRUELAYER LIMITED



Consumer Data Right Interoperability

As outlined in our response¹ to the ACCC Consumer Data Right (CDR) Rules Consultation in September this year, we encourage the Government to take the opportunity to review the CDR rules to reduce complexity, remove barriers to competition and innovation and facilitate interoperability of the regime.

As the leading regulated open banking fintech platform in the UK (we process over 50% of open banking data), TrueLayer have found it difficult to participate equally in the Australian CDR to date because of the lack of alignment in regulations and equal recognition with the UK regulations. More needs to be done to easily enable the participation of firms across both jurisdictions.

We welcome the recent recommendations in the [Future Directions Report](#) and in particular those that will seek to increase participation in the CDR in Australia and create alignment with the UK regulations.

With regards to the Committee's request for further evidence at the Senate Hearing on the 12th of February, we have focussed this submission on the interoperability of the CDR with the U.K. and EU Open Banking regulations and sought to answer the following reference questions:

- 1. The potential for Australia's CDR to interact with open banking data sharing schemes in other jurisdictions (e.g. California, the United Kingdom and Singapore), and how this potential can be realised.*
- 2. What kinds of measures may be required as the Consumer Data Right evolves in Australia to ensure that it increases competitive forces in Australia.*

Therefore, we have outlined in this submission our recommendations to support interoperability with the UK and EU regulations:

1. Accelerating the introduction of the Affiliate/Sponsor model to encourage both Australian and non-Australian participation.
2. Recognition of non-Australian accreditation to accelerate participation by non-Australian firms in the CDR
3. Allowing access to CDR testing environments prior to accreditation to speed up participation and mirror international standards
4. Introducing "write access" for the CDR using Payment Initiation to mirror EU regulations

We consider each of these further below.

¹ <https://www.accc.gov.au/system/files/TrueLayer%20%2829%20October%202020%29.pdf>



With regards to the broader considerations of interoperability, we draw your attention to the recommendations in the December 2020 [Future Directions Report](#). In addition, we refer you to the [submission by Fintech Australia](#) to which TrueLayer is a member and also endorsed.

The time is now to make the CDR easier to access for a broad set of participants in order to achieve the principles set out by the Open Banking Review, fulfil the promise of the Consumer Data Right and more broadly Fintech and Regtech in Australia.

1.1 Accelerate the introduction of the Affiliate/Sponsor model to encourage international participants

We recommend the introduction of an equivalent to the “Authorised Representative of an AFS Licensee” in the CDR, in line with the inclusion of intermediaries. In Europe, we have a number of (especially smaller FinTech) clients who operate as our agents under our regulatory license with the UK’s FCA. We are responsible for their actions and are in charge of initial and ongoing due diligence to make sure our clients adhere to the strict security and consumer protection requirements required by PSD2.

This has enabled more rapid go-to-market for innovative players, as well as provided valuable feedback to the regulators on which products are delivering real value to customers, and we believe an equivalent would be of significant value for the Australian FinTech and Regtech ecosystem. The agent model acts as a regulatory incubator for smaller firms, many of whom go on to obtain full regulation themselves and cease to be our agents.

We therefore welcomed the introduction of the concept of an Affiliate model to the CDR rules by the ACCC in September, but we believe it requires some simplification and clarification to achieve its goal of increasing participation and broader interoperability with the UK.

We are also of the view that a well-functioning Affiliate model will provide the greatest increase in participation to the CDR, and reduce the need for additional more complex models such as Data Enclaves or Limited Data Restrictions. Without going into the full detail of our previous submission on 18 November to the ACCC (published [here](#))², we recommend:

- Proceeding without delay with implementing an effective Affiliate/Sponsor model to enable the greatest uplift in participation, since we believe it provides the best balance of flexibility and regulation and will allow the next phase of the CDR to meet its objectives.
- More responsibility should be handed to ‘data extractors’/intermediaries to safely access

² <https://www.accc.gov.au/system/files/TrueLayer%20%2829%20October%202020%29.pdf>



data and hand it on to other businesses (incl. non-accredited ones) in line with the clear and explicit consent of consumers, as is possible under PSD2 in the EU and UK.

- To allow this, the Affiliate/Sponsor model should be simplified so that Sponsors can apply to the regulator to appoint Affiliates, without the Affiliate needing to go through an additional accreditation process. The Sponsor would retain full responsibility for the actions of the Affiliate, including liability to the consumer. This is the case under PSD2 in the EU and UK where the regulated principals such as Truelayer can apply to the regulator to appoint agents to provide services on their behalf.

Please refer to our full submission to the ACCC on our recommendations on the Affiliate/Sponsor model.

1.2 Recognition of non-Australian accreditation to enable non-Australian firm participation in the CDR

There are large numbers of regulated FinTech firms in Europe, such as TrueLayer, who specialise in building technology that would help deliver the government's aims for FinTech. To provide their services to the market, these firms have had to ensure they meet the high expectations of EU regulators, in particular in respect of stringent data protection, privacy and information security measures (for example under PSD2).

We believe that recognition of non-Australian accreditation and certifications would speed up the rate at which FinTechs can provide their infrastructure services to the Australian market, which would be beneficial to the Australian economy and job market, and speed up the growth of local FinTechs and Regtechs.

We recommend focussing on enabling greater participation by international fintech firms in Australia, and vice versa through recognising regulatory accreditation, before exploring cross border data sharing arrangements as an example.

1.3 Access to CDR testing environments prior to accreditation

We believe that the government should work with regulators to allow interested parties the ability to test CDR APIs prior to receiving accreditation. In the EU, PSD2 requires banks to provide testing facilities to both regulated and non-regulated businesses who are in the process of seeking authorisation so that they can test connections to the banks' APIs. This allows prospective open banking providers to test their connections and products while awaiting the outcome of their applications for authorisation. The testing facilities do not pose risks to end-customers because they use dummy data.



1.4 Introduction of “write-access CDR” Payment Initiation APIs

The arrival of Payment Initiation APIs in Europe is, at present, opening up a wave of payments innovation, such as offering safer, faster and cheaper alternatives to card payments, more efficient payment flows between companies, the promise of an alternative to Direct Debits, and more. We note the inclusion of payment initiation APIs in the NPP’s roadmap, and broadly welcome this.

However, we want to highlight that NPP-level payment initiation is not equivalent to the European capabilities. Crucially, Payment Initiation APIs in Europe are agnostic to the underlying payment system, and using them does not require companies to be a participant (direct or indirect) of the payment scheme, such as SEPA in the Euro-Zone or Faster Payments in the UK. Instead, PSD2 mandates that the payment account provider (most often a bank) provides APIs that allow PIS providers to stand in the shoes of the customer and send a payment instruction to the bank on the customer’s behalf.

As such, Payment initiation service providers sit in an ‘instructing layer’ above the underlying payment systems. Requiring PISPs to become participants in the systems themselves would have severely restricted entry to market given the onerous requirements for direct participation in the interbank payment systems.

Having seen the potential and uptake of this simple approach, we urge that the concept of payment initiation is introduced at the same level of abstraction (i.e. as an instructing layer) as the CDR Data APIs, also known as “write access CDR”. To access CDR data, data recipients will not be required to integrate with or understand the underlying core banking systems that the data is originally stored on, and can rely on mandatory API access.

We believe extending this approach to “write access” will enable faster innovation in the FinTech market, especially in reducing manual payments admin and offering safer online payments.

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