20 April 2018

Senate Standing Committee on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
By email: economics.sen@aph.gov.au

Dear Sir/Madam,

Inquiry into the National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Bill 2018 [Provisions] (**the Bill**)

As a major Credit Reporting Body in the Australian credit landscape, illion (formerly Dun & Bradstreet Australia and New Zealand) welcomes the opportunity to provide this submission to the Committee as part of its inquiry into the Bill.

illion has been a strong advocate for the expansion of Australia's credit reporting system and fostering an environment that allows comprehensive credit reporting (CCR) data to be available to credit providers. An effective credit information sharing system, centred on CCR, is critical to better credit risk decision-making that enables greater access to credit for individuals and SMEs and fulfilment of responsible lending obligations.

With poor take-up of CCR following its introduction in 2014, illion strongly concurs with the need for a mandatory approach. The Bill is an important first step in the implementation of mandatory CCR, but further progress will be required to expand on its breadth and depth in order to maximise the consumer and economic benefits from CCR. Our submission is divided into two main parts; firstly, we reflect on the public interest benefits offered by mandatory CCR; and secondly, offer our insights and recommendations on particular aspects of the Bill.

illion is the leading independent provider of data and analytics products and services across Australasia. The organisation's consumer and commercial credit registries make up a central component of Australia and New Zealand's financial infrastructure and are used to deliver end-to-end customer management solutions to clients.

If there are any questions or concerns arising from this submission, please feel free to contact me at any time at [redacted]

Yours sincerely,

[redacted]

Steve Brown
Director- Bureau Engagement

Submission by illion

Inquiry by the Senate Economics Legislation Committee

National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Bill 2018 [Provisions]

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1. About illion

illion is a data and analytics business, operating in Australia since 1887. Using extensive credit and commercial databases, we assist banks, other financial services providers and other businesses to make informed credit and risk management decisions, and help consumers access their personal credit information.

Illion's consumer credit bureau is a core component of our business. Through this service, we provide financial institutions and other clients with access to a range of reports, which assist in understanding the risks associated with current or prospective customers.

In 2014, illion became the first credit reporting bureau in Australia to implement and offer CCR data loading and reporting to the domestic market. We look forward to progressing our work under the proposed mandatory scheme, assisting customers via credit risk assessment, to produce flow-on benefits to competition in the wider economy.

2. Benefits Offered by Mandatory Comprehensive Credit Reporting

A fully implemented, mandatory CCR regime will provide a more open framework through which greater information is shared with lenders and borrowers.

For borrowers, CCR will facilitate greater competition in the market, thereby increasing access to more affordable and innovative products. Borrowers with positive credit histories, for example, will have greater opportunities to benefit from their actions and behaviour, while those previously excluded due to a lack of information may be now be able to access mainstream credit (as opposed to being unable to borrow at all, or reverting to unscrupulous credit providers). Further, individuals in a vulnerable credit situation can be identified and assisted earlier. More generally, greater transparency will assist in effective regulatory oversight of the financial services sector, saving costs and supporting overall economic growth.

For lenders, benefits include more information available to inform credit management decisions, increasing confidence in customers' ability to repay loans, decreasing the rate of defaults, and increasing the ability for new entrants and innovative providers to compete with incumbents.

The Bill seeks to amend the *National Consumer Credit Protection Act 2009* (Cth) (the *NCCP Act*) to mandate the CCR regime; require that large Authorised Deposit Taking Institutions (ADIs) provide comprehensive credit information to particular credit reporting bodies from 1 July 2018 (based on open and active consumer accounts); extend powers of the Australian Securities and Investments Commission (ASIC) to oversee compliance; and amend the *Privacy Act 1988* (Cth) (the *Privacy Act*) to create conditions on the location of stored data.

The Bill follows previous efforts to encourage uptake of CCR in Australia. Reforms to Part IIIA of the *Privacy Act* were undertaken in 2014 with a view to facilitating an efficient credit reporting regime that promoted competition, while balancing the individual consumer's right to privacy. The legislation was accompanied by the *Privacy Regulation 2013* (Cth) to regulate the forms of personal data which a credit provider can share with a credit reporting body (CRB); regulate which entities are permitted to handle an individual's data; and regulate for what purposes this data can be handled. These rules were supplemented by the *Privacy (Credit Reporting) Code 2014* (Cth) (the *Privacy Code*), which is binding on all credit providers and CRBs.

This reform initiated the implementation of a CCR framework in Australia, but has fallen well short of its desired aims. This is primarily because CCR was established as a voluntary scheme for credit providers, under which lenders have demonstrated considerable reluctance to adopt CCR and thus mitigated any significant consumer benefits in the form of increased competition or reduced costs. Until March 2018, the provision of positive credit information has been limited to only around 0.6% of the total number of borrowing accounts in the Australian market.

The 2013 CCR framework can be described as 'narrow' in the sense that it is limited to ADIs (as is the current Bill), rather than applying more broadly to energy and telecommunications companies as is the case in New Zealand and other countries. International standards for credit information sharing systems – particularly the General Principles for Credit Reporting (World Bank, Bank of International Settlements and International Bank for Reconstruction and Development, 2011) which has been endorsed by APEC (Cebu Action Plan, 2015) – recommends CCR that is both broader and deeper (i.e. providing richer borrower information from a wider scope of sources) than the Australian model.

Evidence has demonstrated that greater depth and breadth in the application of CCR has a significant impact on the ability of lenders to extend credit to traditionally underserved groups in

particular. In 2012, illion partnered with global research body PERC to analyse de-identified credit data from 1.8 million Australians and demonstrate the value of credit reform in this market.[1] The research compared credit decisions, based on credit scores developed using primarily negative data in comparison to comprehensive information, to empirically show that younger Australians aged 18-25 will receive the greatest benefit from improved data sharing. The results demonstrated that while overall safe credit approvals could rise by 27 per cent using positive data for the broader population, 18-25 years olds could benefit from a more than 40 per cent increased rate of approvals. The ability to secure credit for a home, vehicle, or education is fundamental at this stage in life.

The current Bill before Parliament is, in illion's view, an important and pressing next step towards the full implementation of an effective CCR regime in Australia. However, there is nonetheless significant room for improvement to maximise consumer benefit from CCR, which we will outline in Part 3 of our submission.

Case studies emerging from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry have revealed numerous examples of vulnerable customers being provided with bank loans and credit cards via fraudulent loan applications, and a reliance on income and expense measures based on estimates or benchmarks (as opposed to actual data). illion is of the view that the introduction of an Open Banking regime, in tandem with mandatory CCR, will provide a robust solution to many of the personal lending issues raised to date in evidence to the Royal Commission. Basiq founder Damir Cuca was recently quoted in the Australian Financial Review on this point stating:

> [Open Banking] provides access to real data that is very difficult to fake. Fraud is very easy with the current processes. But under open banking, that is more difficult. Open banking is also more transparent. You can have access to data in real time, and historical data as well, and determine whether what a customer is saying is true.[2]

Open Banking, we believe, will transform the way consumers interact with the banking system by providing them with the ability and tools to safely share data with different lenders, other financial institutions and fintech companies.

The Review into Open Banking in Australia, commissioned by the Treasurer and led by Mr Scott Farrell, provides a well-considered and robust pathway for the effective and timely implementation of Open Banking. illion has provided a submission to Treasury following the release of the Review.

We believe Open Banking will complement and enhance a mandatory CCR regime by assisting borrowers obtain the most appropriate and least expensive credit product to suit their needs and also allowing lenders to better manage vulnerable customers and helping them through hardship, and minimise instances of fraud.

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[1] Dr Michael A Turner et al, PERC, *Credit Impacts of More Comprehensive Alternative Data Credit Reporting in Australia and New Zealand* (May 2012). Available at: http://www.perc.net/publications/credit-impacts-comprehensive-credit-reporting-australia-new-zealand/ .

[2] James Eyers, 'Open banking a solution to royal commission lending concerns' *Australian Financial Review* (6 April 2018). Available at: http://www.afr.com/business/banking-and-finance/financial-services/open-banking-a-solution-to-royal-commission-lending-concerns-20180406-h0yfdk.

3. illion's Recommendations on the Bill

illion strongly supports the timely implementation of an effective CCR framework, and strongly endorses the need for a mandatory approach. We take this opportunity to highlight a number of recommendations that we believe will enhance the implementation of CCR. Preferably, these changes should be made immediately as part of the implementation of this Bill; if not, these issues should be formally revisited no later than 12 to 18 months hence as part of an objective assessment of the legislation's effectiveness in achieving its consumer policy objectives.

3.1 Expand the application of mandatory CCR beyond Australia's four largest lenders

Under the proposed legislation, only eligible licensees are required to participate in CCR. The Bill defines an 'eligible licensee' to be a large ADI, or a body corporate of a kind prescribed by regulations, with total resident assets exceeding $100 billion at 1 July 2018.[3] This will effectively compel Australia's largest four banking groups to participate in CCR. This prescribed threshold will undoubtedly prove significantly more effective than the voluntary CCR framework currently in place, as the evidence of CCR-uptake to date has clearly demonstrated a lack of willingness to participate. However, illion would suggest that, as a starting point, the mandated participation threshold be lowered to $50 billion so that large, 'second tier' ADIs are also obliged to participate in CCR 12 months after the largest institutions if this has not occurred voluntarily.

As illion understands the Government's position, it believes this broader participation by other credit providers is highly likely to follow automatically from the mandate of the four largest ADIs. illion believes this assumption is unsound, and has undertaken significant research[4] over recent months in the form of direct interviews with ADIs and other credit providers at all levels in the Australian marketplace. Based on our findings, a substantial number of lenders below the $100 billion asset threshold do not intend to participate in the CCR regime unless they are legally required to do so – indeed, over 40 per cent of respondents in our research clearly stated that they intend to supply consumer CCR data only if or when compelled to do so.

By restricting mandatory CCR to effectively only the largest four lenders, illion contends the competitive effects arising from the regime will fall far short of what is possible, in that competition is likely to be largely felt between the big four rather than with other lenders. It has been well-established that 'segmented' credit reporting systems of the sort embodied in the Bill do not produce the same positive effects on competition as fully comprehensive systems.[5] The consequence of segmentation will ultimately be felt by borrowers. Should competition only be improved amongst Australia's four largest lenders, consumers will be faced with an unchanged market amongst small lenders that are not compelled to participate. Competitive effects may be particularly evident depending on the structure of local or regional retail markets, if dominated by either larger or smaller lenders, with the effect that a local lender may not experience any noticeable consequence on competition.

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[3] *National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Bill 2018* sch 1 item 4 (see part 3-2CA, div 1, item 133CN).

[4] See Attachment A.

[5] See generally, Dr Michael A Turner and Patrick Walker, PERC, *Fostering Competition Among Lenders: Proposed Light-touch Mandatory CCR Unlikely to Work* (April 2018). Available at: http://www.perc.net/publications/fostering-competition-among-lenders-proposed-light-touch-mandatory-ccr-unlikely-to-work/.

illion requests that the Committee recommend that:

a) The definition of eligible licensee[6] be expanded to include ADIs with more than $50 billion in resident assets, should they not be voluntarily participating by 1 July 2019.
b) Alternatively, the Bill be amended to introduce a statutory review of the scope of eligible licensees conducted no later than 30 June 2019, based on rates of broader industry participation at that time, with a view to determining whether the definition of eligible licensee should be broadened and, if so, relevant thresholds and timing.

3.2 Expand the breadth of CCR to allow participation of non-financial service providers

Under the proposed legislation, it is reasonable to expect a significant improvement in credit information sharing to result among the four largest ADIs with, perhaps, some benefits for second tier and smaller ADIs and other lenders. However, Australia's CCR framework will continue to exclude important non-financial institution credit providers such as telecommunication and utility companies. illion agrees that telecommunication companies and energy retailers should not be subject to the same mandatory data sharing conditions imposed on large ADIs under the Bill, but instead proposes that amendments be made to the *Privacy Act* and the *Privacy Code* to allow such retailers access to CCR data. Our reasoning is explained below.

In more than 30 countries around the world, non-financial payment data has been incorporated into CCR regimes to give effect to broader credit reporting practices.[7] This has resulted in significant benefit to people who, for a variety of reasons, otherwise would struggle to obtain affordable credit on the basis that they have little to no credit history. Such individuals include young people with no credit history; widowed or divorced older people; minority groups such as Indigenous Australians; or recent immigrants whose credit histories failed to travel with them. Jurisdictions such as New Zealand, the United States, and the United Kingdom all authorise the sharing of non-financial payment data for the purpose of ensuring this class of borrowers are able to develop payment histories in order to access affordable, mainstream credit. Should the Bill be amended to allow Australia to follow this leading international practice, it seems clear that the number of prospective borrowers who will gain access to affordable credit will substantially increase.

illion is therefore of the view that significant social and economic benefits would result from the expansion of the credit reporting system beyond Australia's ADIs and other financial sector lenders. In particular, we note the experience in New Zealand, a jurisdiction in which illion has a substantial operating presence. As part of its 2012 reform of the Credit Reporting Privacy Code, the New Zealand Privacy Commission broadened the scope of data shared under its CCR regime. As a result, non-financial services providers such as energy and telecommunication companies were early adopters of comprehensive data, which in turn encouraged other users to participate. The participation of companies in these sectors has driven greater uptake in the broader New Zealand market, where illion sees 66 per cent of all credit enquiries matched to a file containing CCR data,

[6] *National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Bill 2018* sch 1 item 4 (see part 3-2CA, div 1, item 133CN).
[7] Dr Michael A Turner and Patrick Walker, PERC, *Fostering Competition Among Lenders: Proposed Light-touch Mandatory CCR Unlikely to Work*, (April 2018) pp 17, 19. Available at: http://www.perc.net/publications/fostering-competition-among-lenders-proposed-light-touch-mandatory-ccr-unlikely-to-work/.

compared to the Australian market where we only see 38 per cent of credit enquiries being matched to a file containing CCR data.

We also note that non-financial service providers form a large segment of the credit environment in Australia. Credit management is an important part of these entities' businesses. Given this, we strongly believe the ability to obtain better and more comprehensive data would have similar benefits for them as for ADIs and other lenders in regards to credit management. Citing New Zealand again, where full participation in CCR is not restricted to credit licence holders, 39 per cent of the CCR data held by illion relates to telecommunications and utility accounts.

In keeping with the responsible lending obligations that apply to Australian ADIs and other lenders under the *NCCP Act*, illion notes that companies in these sectors also have obligations outlined in their Industry Codes of Practice relating to consumer protection involving the management of credit risk. We note, for example, the Telecommunications Consumer Protections Code and the Energy Retail Code.

These suggestions echo illion's earlier calls for the extension of CCR beyond the four major lenders to all organisations which hold an Australian Credit Licence (ACL) and telecommunication and utility retailers, to deliver more competitive outcomes for consumers.[8] illion has not called for a mandate to be applied to companies in the telecommunications and energy sectors, but simply that comprehensive data is made available to them.

illion requests that the Committee recommend that:

> The *Privacy Act* and the *Privacy Code* be amended to permit telecommunication and energy retailers to supply and access Repayment History Information (RHI) in addition to the existing Consumer Credit Liability Information (CCLI) data that they can access and supply at present.

3.3 Expand the depth of mandatory CCR to include other key data

Under the proposed legislation, the depth of mandatory CCR's application will extend to a defined series of data sets. These include data relating to customer identification information; consumer credit liability information; repayment history information; default information; payment information; and new arrangement information.[9] While each of these data sets is important to the implementation of CCR and should be retained in the Bill, the current omission of customer account balances should be addressed, for the reasons outlined below.

Account balance data assists in enhancing transparency, for the benefit of both lenders and borrowers. The inclusion of a borrower's account balance data can reveal to lenders how indebted the borrower is, particularly in comparison to credit limits. This information is critical in assisting lenders in developing an accurate risk profile of a prospective customer. Logically, a lender would be more willing to extend credit to a customer with a $100,000.00 line of credit and a balance of $0.00, for example, as opposed to a customer with the same available credit and a $100,000.00 balance. Without the addition of account balance data, these customers appear identical to the lender.

[8] Illion, *illion welcomes positive credit reporting for banks and calls for extension of rules to other sectors*, media release (2 November 2017) <http://dnb.com.au/_media/documents/Media_release_illion_CCR_Final_Website.pdf>.

[9] *National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Bill 2018* sch 1 item 4 (see part 3-2CA, div 1, item 133CP).

Similarly, risk assessment is further complicated by a lack of transparency in a customer's rate of credit utilisation (the ratio of account balance to total credit limit). For example, a customer's monthly payment of $1,000.00 per month could indicate they are paying either a monthly minimum amount on a large total balance, or are paying off the total amount per month without accruing a balance. A lender would be more likely to extend credit to a customer with a low credit utilisation rate, but in the absence of account balance data, will need alternate means to assess this particular aspect of risk. Importantly, if unable to assess the rate of credit utilisation, lenders will struggle to identify low risk borrowers and undertake risk-based pricing.

Account balance data will also be of assistance to the borrower, as this increased transparency will ensure lenders have accurate insight into a borrower's level of indebtedness, which will in turn prevent the borrower from becoming over-indebted. Similarly, borrowers who represent lower risk (for example, due to a low rate of credit utilisation) will become more attractive to lenders under this model of CCR, and more clearly identified. The ability to more easily target low risk prospective borrowers will impose further competitive pressure on product pricing in the lending market.

illion requests that the Committee recommend that:

> The Bill be amended to include account balance data in the definition of 'mandatory credit information'[10] to be shared between CRBs and credit providers.

3.4 Financial hardship arrangements

Customer financial hardship arrangements are presently regulated under the *NCCP Act*, but are not reflected in consumer credit reports. Attorney-General Christian Porter recently announced a review by his Department into the operation of current hardship arrangements and the interplay with consumer credit reporting. The review is expected to be finalised by the end of 2018.

illion is of the view that, in the interests of transparency, and for the benefit of both customers and lenders, there should be greater visibility of financial hardship arrangements in the context of CCR. Enhanced transparency measures would mirror the clarity provided by added account balance data (discussed above at 3.3) to produce a context in which a customer's financial circumstances are more evident. Together, these changes would provide greater oversight of customer indebtedness, offering earlier opportunities to intervene in the interests of the borrower. Preventing over-indebtedness is demonstrably beneficial for the customer. We would suggest this increased transparency measure should be accompanied by further guidance on the interplay between hardship arrangements and CCR, made available to industry and consumers.

illion requests that the Committee recommend that:

> The *NCCP Act* and *Privacy Act* be amended to include a mechanism through which a customer's financial hardship status may be flagged by CRBs and credit providers.

3.5 Information security requirements

[10] *National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Bill 2018* sch 1 item 4 (see part 3-2CA, div 1, item 133CP).

illion continues to recognise and act on its data security obligations under section 20Q of the *Privacy Act*, requiring CRBs to take reasonable steps to protect data from misuse, interference and loss, unauthorised access, modification or disclosure; and enter agreements with credit providers to ensure the same protections are afforded to shared data.

Under the Bill, credit providers are exempted from their obligations to share data with CRBs if the provider holds a reasonable belief that the CRB is not complying with its obligations under section 20Q of the *Privacy Act*, and prepares a written and final notice to this effect to the CRB, ASIC and the Information Commissioner within relevant time frames.[11]

illion is of the view that, given existing obligations and safeguards enshrined in the *Privacy Act*, this added exemption in the Bill is superfluous. This position is based on potential practical effects of the exemption, namely that it may be utilised as a barrier to the provision of data. That is, by setting a benchmark for satisfaction of section 20Q of the *Privacy Act* at a level over and above existing robust industry practice in order to circumvent data sharing obligations. Our view is also based on the fact that the adequate information security protocols are already in place, allowing CRBs to receive credit enquiries from a bank in the present 'negative' data environment, is prima facie evidence that information security is adequate in a more comprehensive regime. There is no added risk associated with the sharing of further data, as current safeguards in place do not differentiate between the volume or type of protected data.

illion requests that the Committee recommend that:

> The Bill is enhanced to oblige licensees to provide appropriate evidence to substantiate its belief that a CRB has not satisfied its obligations under the *Privacy Act*, and to allow a CRB to respond to the licensee prior to the licensee lodging a notice.

[11] *National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Bill 2018* sch 1 item 4 (see part 3-2CA, div 2, item 133CS).

4. Summary of Recommendations

Item	Relevant Bill provision	Recommendation
3.1	Sch 1, item 4 Part 3-2CA, div 1, item 133CN *Meanings of eligible licensee and eligible credit reporting body*	*Expand the application of mandatory CCR beyond Australia's four largest lenders* illion requests that the Committee recommend that: a) The definition of eligible licensee be expanded to include ADIs with more than $50 billion in resident assets, should they not be voluntarily participating by 1 July 2019. b) Alternatively, the Bill be amended to introduce a statutory review of the scope of eligible licensees conducted no later than 30 June 2019, based on rates of broader industry participation at that time, with a view to determining whether the definition of eligible licensee should be broadened and, if so, relevant thresholds and timing.
3.2	Sch 1, item 4 Part 3-2CA, div 1, item 133CN *Meanings of eligible licensee and eligible credit reporting body*	*Expand the breadth of CCR to include non-financial service providers* illion requests that the Committee recommend that: The *Privacy Act* and the *Privacy Code* be amended to permit telecommunication and energy retailers to supply and access Repayment History Information (RHI) in addition to the existing Consumer Credit Liability Information (CCLI) data that they can access and supply at present.
3.3	Sch 1, item 4 Part 3-2CA, div 1, item 133CP *Meaning of mandatory credit information*	*Expand the depth of mandatory CCR to include other forms of data* illion requests that the Committee recommend that: The Bill be amended to include account balance data in the definition of 'mandatory credit information' to be shared between CRBs and credit providers.

3.4	Sch 1, item 4 Part 3-2CA *Licensees supplying credit information to credit reporting bodies etc.*	*Financial hardship arrangements* illion requests that the Committee recommend that: The *NCCP Act* and *Privacy Act* be amended to include a mechanism through which a customer's financial hardship status may be flagged by CRBs and credit providers.
3.5	Sch 1 item 4 Part 3-2CA, div 2, item 133CS *Exception if credit reporting body not complying with 21 information security requirements*	*Information security requirements* illion requests that the Committee recommend that: The Bill is enhanced to oblige licensees to provide appropriate evidence to substantiate its belief that a CRB has not satisfied its obligations under the *Privacy Act*, and to allow a CRB to respond to the licensee prior to the licensee lodging a notice.