



NATIONAL AUSTRALIA BANK SUBMISSION

Noting Paper 273 - Consent Review

December 2022

NAB thanks the Data Standards Body (DSB) and Treasury for the opportunity to participate in the Consent workshop on 22 November 2022 (Workshop).

We understand that the DSB and Treasury are exploring opportunities to simplify the Consumer Data Right (CDR) consent rules and standards to support a better consumer experience while maintaining key consumer protections.

Please find below NAB's feedback in respect of the proposals canvassed during the Workshop. We would be happy to provide any additional information required by the DSB/Treasury in relation to the below.

1. Pre-selected and actively selected options

Change Proposal: Clearly indicated options could be pre-selected if they are essential to the provision of the service. If certain options are not essential, the current active selection requirements could still apply. (Noting Paper 273, page 5).

NAB Feedback: NAB considers this a sensible proposal and supports the change. NAB also notes that Accredited Data Recipients (ADRs) must comply with the data minimisation principle and therefore this provides a further layer of protection, given it prohibits ADRs from collecting more data than is reasonably necessary to provide the consumer with the relevant good/service.

2. Data language standards

Change Proposal: The data language standards could be revised to make clear that ADRs and Data Holders (DHs) can apply certain aspects of the data language standards more conversationally. (Noting Paper 273, page 6).

NAB Feedback: NAB supports this change proposal.

3. Withdrawal of consent information

Change Proposal: The requirements for withdrawal instructions and consequences to be displayed could be reviewed. These could be provided in the CDR Receipt. (Noting Paper 273, page 6).

NAB Feedback: NAB supports this change proposal and it seems to us that it is likely to provide beneficial outcomes, such as minimising cognitive overload and aiding in comprehension and clarity. We agree that it is likely to be more meaningful for a consumer to have a copy of the instructions on how to withdraw their consent in the CDR Receipt.

4. Authentication information

Change Proposal: The authentication standards could be amended so that ADRs no longer need to reference a 'One Time Password' (OTP). (Noting Paper 273, page 7)

NAB Feedback: NAB supports allowing for authentication options beyond OTP. We welcome the opportunity to discuss the other options for authentication that may be utilised in the future and note that it will be important to ensure there is optionality in how to deal with security in the CDR ecosystem, provided minimum standards are met.

We note that digital identity could provide a means for verification of identity, including to support the CDR infrastructure. Digital identity has broader use cases beyond CDR and therefore NAB

supports a policy of ensuring interoperability with existing initiatives, including public and private sector digital identity schemes. We would strongly recommend that any authentication frameworks which might be embedded in the CDR adopt an open-standards approach which would help to future-proof the CDR and support the uptake and acceleration of digital identity.

5. Supporting parties

Change Proposal: The various rules on displaying 'supporting parties' could be consolidated and simplified so they are consistent regardless of whether they are an OSP, principal, sponsor, or perform another role. (Noting Paper 273, page 7)

NAB Feedback: NAB supports the proposal for simplification and consistency in the relevant disclosures. NAB notes, however, that where an ADR engages a number of OSPs (which in future as the ecosystem expands, may likely be the case), requiring an ADR to provide a list of all OSPs in the consent flow (rather than noting that OSPs are used, with further detail in the ADR's CDR policy), may lead to a large amount of information being presented to a consumer, which may undermine understanding of the consent and data sharing arrangements. It may be preferable to have a consistent standard, where supporting parties are described in a hyperlinked policy in a standardised format (rather than requiring these disclosures in the consent flow itself).

6. 90-day notifications

Change Proposal: The rules could be amended to allow such notifications to be consolidated, made more actionable, and tailored according to consumer preferences. (Noting Paper 273, page 7).

NAB Feedback: In NAB's view it would be preferable to remove the requirement for these notifications to reduce notification fatigue rather than requiring tailoring or customisation. We suggest that tailoring be optional, rather than mandatory, to enable data holders to prioritise other required changes.

7. Dark patterns

Change Proposal: A principle-based CX standard could be considered to prohibit interfaces, choice architecture, and design patterns that undermine, impair, or subvert user autonomy, choice, and decision making, and the CX Guidelines and other guidance could then provide relevant visual and theoretical examples to guide implementations. (Noting Paper 273, page 8).

NAB Feedback: NAB understands that this proposal is considering the need for a general principles-based prohibition on 'dark patterns' in the event that a level of prescription is removed from the CDR Rules and CX standards. NAB refers to the following paragraph in the Noting Paper 273:

To date, CX research and CX Guidelines have explicitly avoided the use of dark patterns, but live CDR implementations exhibit designs that would be considered dark patterns. In the context of CDR, this might include emphasising certain actions or settings over others to enable more data collection or the granting of additional permissions when seeking consumer consent, or by making consent withdrawal more difficult than the process of granting consent in the first place.

NAB queries whether these issues are already dealt with through the existing CDR Rules framework. For instance:

- UX seeking to enable more data collection could be addressed through the data minimisation principle, which prohibits ADR from collecting more data than is reasonably needed to provide a consumer with the relevant good/services requested (CDR Rule 1.8);
- Granting of additional permissions or making consent withdrawal more difficult could be addressed by the requirements that consent be voluntary, easily withdrawn and not bundled. (CDR Rules 4.9 and 4.10).

As such, NAB queries whether there is in fact a need for principles targeting 'dark patterns' at this juncture. We note that 'dark patterns' is an emerging area, and this term has not yet been comprehensively defined and may be covered by a broader economy wide prohibition against unfair practices, as has been recommended by the ACCC. In our view, including such a prohibition within the CDR may create unnecessary regulatory complexity and uncertainty amongst participants regarding compliance and it seems to us that the issues could be adequately dealt with through the CDR Rules framework.

8. Dashboards for once-off consents

Change Proposal: The rules could be reviewed to assess if dashboards should be required for ADRs that only intend to support once-off consents with no ongoing use. (See also CDR receipts) (Noting Paper 273, page 8).

NAB Feedback: NAB welcomes this proposal and would support the removal of the requirement for dashboards for one-off consents, as this information could be provided as part of the CDR receipt.

9. CDR receipts

Change Proposal: The CDR receipt rules could be more explicit about what to include, and when to provide a CDR receipt. This could be refined to specify key and meaningful details, avoid extraneous information, and specify the inclusion of other information that may not currently be present or that may be removed from the consent flow to support simplification. (Noting Paper 273, page 9).

NAB Feedback: NAB supports this proposal and agrees that it would aid comprehension and the maintenance of informed consent, by minimising the information provided during the time-constrained consent flow process.

10. Separation of consents (bundling)

Change Proposal: The rules could be reviewed to allow 'bundling' of CDR consents for collection, use and/or disclosure consents where these consent types are necessary for the provision of the requested good or service. The consumer must still be presented with necessary information about the consents they are agreeing to. (Noting Paper 273, page 9)

NAB Feedback: NAB welcomes the DSB/Treasury proposal to allow bundling of consents. In our view this is a sensible proposal, as without the proposed streamlining, the current consent framework exponentially increases the effort required by consumers as part of CDR consent flows (as compared to other alternatives) and may be a disincentive for consumers. We provide some

additional examples and proposed solutions below (which were also raised by NAB as part of the Workshop).

a) Use cases should be able to be added to, both in consents, and as new features arise:

Problem statement: A consumer has given an ongoing consent to an ADR to monitor their spend and display PFM insights and send them offers for various merchants. Later, the ADR expands this to offer discounts for consumers who obtain energy through 'green' providers.

Proposed solution: Allow additional use cases/features/consents to be added easily within an existing consent/product experience, rather than requiring consumer to go through the entire consent framework to add an additional feature.

b) If not streamlined the current consent model imposes extra effort to the consumer

Problem statement: A consumer that banks with Banks A, B and C decides to try out each of the banks' account aggregator feature, as they wish to have a single App to see all of their finances, without giving up the power of keeping their money where the best deals are. Because of the inability to share multiple accounts in one go, the consumer has to consent a total of six times to find the best fit for them.

Proposed solution: We should strive to remove redundant steps in the flow wherever possible. Potentially allowing multiple ADRs to prescribe to a common ingestion use case, and allowing these accounts to be viewed in Banks A, B and C in one easy flow.

c) Action initiation will require bundled consents as initiators will likely require data access in order to perform actions

Problem statement: It will likely be necessary for an AAI to receive CDR data in their capacity as an ADR in order to instruct and execute 'actions'. If AAIs / ASPs are unable to request these under the same consent, this doubles the work for the consumer.

Proposed solution: Include the ability for ADRs to request data sharing within action requests, rather than creating the need for the consumer to go through two separate consent flows.

11. De-identification and Consent

Change Proposal: While we are not proposing specific changes at this time, community feedback is invited on the requirements and processes relating to de-identification and deletion in CDR, including if revisions should be considered. (Noting Paper 273, page 10).

NAB Feedback:

As previously submitted, NAB believes the de-identification standard codified by the CDR Rules requires a level of de-identification which renders the CDR data not fit for purpose for product maintenance and development, particularly in relation to complex data models. NAB recognises that de-identification techniques need to be robust and at times the standards of de-identification are not consistently used, and datasets are shown to easily be re-identified. Equally, there is a balance to be struck if de-identified CDR datasets are to be of value for product maintenance and development. We would welcome the opportunity to discuss these issues further with the DSB and Treasury to find a solution which balances the need for protection of CDR data and the ability to utilise CDR data to maintain and improve service offerings.