



Response to Strategic Assessment
Consultation of the Consumer Data Right
(CDR) and its Implementation

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Introduction

IoT Alliance Australia (IoTAA) is the peak Australian IoT industry body with over 500 participating organisations and 1000 individual participants working across 12 workstreams. We address deployment and uses of Internet of Things (IoT) devices and services in Australia. Our mission is to accelerate the adoption of IoT in Australia to improve our competitive advantage and benefit society.

IoTAA welcomes this opportunity to contribute to the Strategic Assessment of the Consumer Data Right (CDR) and its implementation.

IoTAA expects that IoT adoption will result in massive growth of IoT generated data, including data related to consumers. Data generated from IoT will cover the widest possible range of cases relating to consumers, including use of energy, water, security, access, telecoms, home automation etc. This promises great consumer benefits and will likely encourage new and innovative business models. Alongside these benefits there are risks of unintended uses of consumer data and consumer service lock-in through, for example, complex service models or consumer lack of unawareness of what data is being automatically collected and shared.

Moreover, we see the significant increase in consumer generated data as continuing the shift that has already occurred between governments as data collectors and the private sector. This was identified by the Productivity Commission report on *Availability and Use of Data* in March 2017.

IoTAA welcomes ongoing and active Strategic Assessment of the application of CDR across sectors and datasets across the economy, as well as how the CDR should be implemented across different parts of the economy with regard to its key policy objectives. The Strategic Assessment should result in a view on the prioritisation and sequencing of CDR implementation.

However, we question the setting of a timetable and need for accelerating the implementation of a broader CDR rollout without (as yet) identified, recognised and understood consumer benefits balanced against implementation costs.

Regarding the assessment of consumer benefit, there are important considerations that should be included in the overarching strategic assessment and in determining the balance between benefits and costs which don't appear to have been considered yet. These include:

- Consumer awareness and understanding of their 'data' and their data rights
- The impact of digital inclusion and exclusion in relation to the benefits

Policy Rationale for declaring CDR datasets

IoTAA supports the Consumer Data Right (CDR) scheme as an enabling framework to help consumers efficiently and conveniently access specific basic data sets relating to them as collected and held by Australian businesses operating in specific sectors, including through enabling an individual consumer to authorise secure access to data about themselves by nominated (accredited) third parties.

Declarations of data sets under the CDR scheme should only be made where there is a demonstrated need to address a market failure in relation to availability to consumers of specific sets of basic data relating to them as held by businesses in specific categories of businesses.

So-called sector-wide declarations are generally inappropriate. Consumer benefit should be weighed against the effect on competition between businesses. Each declaration fundamentally alters the state of competition between businesses: creation of demand side benefits will often alter the state of supply side competition.

Each decision to make a declaration should be preceded by a published assessment (in draft for public comment before finalisation), which includes careful analysis of possible effects on supply side competition between businesses, as well as analysis of consumer benefit.

A declaration may improve competition between businesses in a sector: for example, where availability to consumers of the declared CDR data set facilitates comparison of prices and product features ('apple with apple') comparisons, or reduce friction, inconvenience or expense of consumers when moving between service providers.

A declaration may have adverse effects on the profitability of particular businesses or a particular category of business, but still be justified by demonstrable consumer benefit. For example, a declaration might enable a consumer to obtain information that enables them to determine whether and how to use IoT or other technologies to increase efficiency of use of a particular service, such as by knowing time of day consumption patterns, thereby empowering decisions to change their consumption and reduce use or cost of use of a particular service.

This declaration may reduce profitability of suppliers but be justifiable. A declaration may facilitate important transitions in the Australian economy, such as by enabling a consumer to obtain the information required to make cross-sectorial comparisons. For example, energy consumption CDR data sets may enable an adviser to inform the consumer whether to change electricity or gas to solar, whether to install a solar fed battery and if so, of what capacity and configuration.

By contrast, a declaration may erode competition between businesses in a sector if forced availability of data sets to competitors lessens incentives for businesses to innovate and differentiate their offerings. An adverse impact on competition is likely where data within a potential CDR data set is significantly value added through algorithmic inferences, matching with other data sets and other transformations and insights through advanced data analytics. In general, if curation and transformation of data is the essence of the service, rather than data being a by-product of provision of a service (i.e. transaction data where the transaction principally relates to something other than collection and use of this data), there is a substantial likelihood that declaration of that data would lessen incentives for relevant data holders to innovate and differentiate their offerings.

Sometimes, forced availability through declaration of even basic data sets may impede competition within a sector. For example, collation and curation of data about consumers is the core of customer loyalty programs, their differentiation between each other and creation and maintenance of their value proposition for consumers. Declaration of consumer loyalty program data would likely lessen incentives for loyalty program operators to innovate and differentiate their offerings.

In some cases, derivation of consumer benefit from use of IoT devices may depend on the availability of declared CDR data sets (or at consumer direction, to new service providers) to inform them about whether, when and how to deploy IoT devices and use IoT device data driven services. In other cases,

an assessment will need to be made whether data generated by use of IoT devices should be declared CDR data sets. In each case, the justification should be made in an assessment that is finalised after public comment and published before declaration. That assessment should address both supply side and demand side effects of a declaration.

Recommendations

Before priority sectors can be set for CDR there are a few pre-requisites that need to be the subject of the Strategic Assessment.

- Evidence of demonstrable consumer benefit for sectoral use cases where there are identified 'valuable' data sets being collected.
- Initial cost benefit analysis for consumers, business and the economy.
- Initial identification of the market barriers to consumers accessing their data and the time to implement CDR for that sector.
- Relative cost/benefit between use cases.
- Consideration whether there are other government tools and initiatives that individually or in concert achieve better competition and consumer outcomes.
- IoTAA recommends an assessment of the current CDR arrangements in declared sectors take place as a first step before proceeding with the wider rollout of the scheme. With the knowledge of what is working and what can be learned from the current implementation, the settings for the scheme can be adjusted and will inform how to proceed with a wider Strategic Assessment to examine other sectors.

This would create a candidate list for deeper consideration with industry and consumers in a particular order that are not yet priorities for implementation.

We concur with the views of the Australian Information Industry Association that government should formulate a comprehensive community-focused education plan on the CDR that focuses equally on reassurance, awareness, and information.

IoTAA would be pleased to discuss this submission. Please contact Frank Zeichner, CEO IoTAA, frank.zeichner@iot.org.au

Consultation Questions

1.	Are there examples of uses cases of particular life events or key consumer activities where access to consumer data within or across sectors could significantly improve consumer experience and outcomes? If so, how should such use cases be prioritised?	<p>Notwithstanding large data sets being created both in the care and wellbeing sectors, there is evidence of poor data use in health.</p> <p>As mentioned in the Productivity Commission's report of 2017, relative to our peers overseas, health data is an underutilised resource with Australia ranking poorly vis-à-vis similar countries in consumer data access and sharing.</p> <p>A few pre-requisites are needed before priorities can be set for CDR:</p> <ul style="list-style-type: none"> • evidence of demonstrable consumer benefit for sectoral use cases where there are identified 'valuable' data sets being collected • initial cost benefit analysis for consumers and business/economy • initial identification of barriers to implement and time constraints • relative value to consumers and the economy across the various use cases.
2.	Are there particular important datasets that have cross-cutting benefits and could support a range of important use cases both within and across sectors	<p>There are many possible consumer data sets that could have cross-cutting benefits, including finance, asset ownership, water and energy use, health and services for the aging, for example. These would provide a necessary but insufficient condition for determining whether developing a CDR would be of benefit.</p>
3.	What are the top consumer issues that improved access to consumer and product data could help with? In other words, what are some of the significant or innovative use cases in an economy-wide CDR? Why are they important? For example, are there use cases which would improve the welfare of, or ability to access services and improve participation by vulnerable or disadvantaged consumers?	<p>A top-down analysis is needed before such a list can be defined.</p> <p>Improved at home, pre-care, care and post-care for wellbeing and health seems to be (at least on the surface) significant for consumer benefit and economic impact.</p> <p>Bringing together consumer data with other data can spur innovation in delivering a step-change in services, better meeting consumer needs as well as more effective and faster decision-making for consumers and service providers.</p> <p>For example, accessing individual customer health data from data sets across a community combined with geographic and other health-related information, can help drive better-targeted programs that are more in tune with the socio-economic factors and ethnic diversity issues that impact health outcomes.</p>

<p>4. What consumer or product data is required to bring these use cases to life?</p>	<p>Dependent on prioritised sectoral use cases (and evident availability of relevant data sets).</p>
<p>5. Would prioritising access to a particular sector or dataset facilitate faster adoption or improve efficiency of expansion of the CDR? Are there sectors where significant data sharing is already occurring? If so, would applying the CDR improve this or provide additional benefits such as greater standardisation?</p>	<p>CDR would seem to be part of a broader government consumer and economic toolkit for data access, management and better competition outcomes for consumers.</p> <p>How the other tools e.g. data sharing frameworks, user identity etc. work with CDR needs to be holistically considered in order to answer this question in a meaningful way.</p>
<p>6. What are the more useful datasets for designation or examples of specific compelling datasets which providers across sectors could especially benefit from? Are there richer opportunities for consumer benefit where datasets from multiple sectors are combined?</p>	<p>See 4 above</p>
<p>7. Is the CDR the appropriate path to support these various potential use cases, or are there other solutions available?</p>	<p>See 5 above</p>
<p>8. Are there sectors with competition issues which would more readily benefit from reductions of data-related barriers? For example, to facilitate providers responding to competitive pressure by improving products and services, new market entries or increased transparency.</p>	<p>Hard to answer this without considerable work assessing sectors where data access creates barriers to competition.</p> <p>This assessment would benefit from looking at data sharing and consumer accessibility to their data in countries similar to Australia to determine areas where Australia is lagging.</p> <p>Most sectors will have competition issues of some degree and might benefit from reduction of data-related barriers. From a consumer perspective, whether CDR is the relevant tool to improve competitiveness is not clear.</p>
<p>9. Which sector market's efficiency could be improved by making consumer and product data readily transferable to other providers? Are there sectors where there is currently a high transaction cost to release and disperse this data that the CDR could address?</p>	<p>See 1 above</p>
<p>10. Are there other steps we could take to strengthen or develop the CDR regime to enhance the economy-wide roll-out?</p>	<p>See 5 above</p>

<p>11. Are there any datasets or kinds of data that may or may not be suitable for Consumer Data Right designation (e.g. due to privacy concerns)? Why?</p>	<p>It would be better to start from the opposite view – i.e. which data sets are suitable – as per question 1.</p>
<p>12. Are there global trends or good examples internationally of where consumer data is being used to drive better consumer and/or social outcomes? How has this informed that jurisdictions approach to rolling out comparable data regimes</p>	<p>Europe's General Data Protection Regulation (GDPR) covers aspects of consumer data rights especially privacy, consent and security. The United Kingdom, as noted in the Productivity Commission Report, has better systems for consent enabled sharing of health data and is more advanced than Australia.</p>