

13 December 2021

Consumer Data Right Division
Treasury
Langton Cres
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By email to data@treasury.gov.au

Dear Consumer Data Right Division

Submission to the Treasury – Consumer Data Right (Telecommunications Sector) Designation 2021

Thank you for the opportunity to comment on the Treasury’s proposed *Consumer Data Right (Telecommunications Sector) Designation 2021 (draft Designation)*.

As an external dispute resolution scheme recognised by the OAIC to handle privacy-related complaints under the *Privacy Act 1988*, our office has extensive experience with privacy complaints in the telecommunications sphere.

We are broadly supportive of Treasury’s draft Designation but offer observations on some of the data sets proposed for inclusion and exclusion. We also flag some important future considerations for development of CDR in the telecommunications sector.

1. Data sets proposed for inclusion and exclusion under the draft Designation

Our observations on the proposed data sets in each section of the draft Designation are set out below.

1.1 Information about retail customers and users (section 6)

We recommend the information about retail customers and users in section 6 of the draft Designation be qualified in two ways.

Firstly, there may be privacy risks to the CDR being extended to information about a consumer’s associate who has used or is using the product (sub-section 6(a)(ii)). While the inclusion of such information may be useful in certain situations (for example, where the associate is a family member who also uses the telco service), it may also result in information about an associate being disclosed without the associate’s consent.

Treasury may wish to consider what steps, if any, an Accredited Data Recipient (ADR) must take to satisfy themselves a person or entity falls within the definition of associate. In addition, Treasury could consider a process for ADRs to remove information about associates on their request.

Secondly, Treasury may wish to consider narrowing the scope of sub-section 6(b)(iii) which is currently drafted in very broad terms. Narrowing the scope could ensure clarity around the type of information to be collected and reduce the risk of unnecessary information being collected.

1.2 Billing and account information about retail supplies of products (section 7)

We are broadly supportive of most data sets proposed for inclusion under section 7 and provide the following observations on certain data sets.

Telephone numbers to which the bill relates (sub-section 7(1)(f))

The privacy risks of including telephone numbers to which a bill relates should be weighed against any benefits. Our office has handled privacy complaints where someone complained their phone number had been disclosed without their permission, through a bill. Privacy complaints such as these can sometimes result in a provider paying significant compensation to a consumer.

Additionally, Treasury might want to consider what mechanism an ADR may use to remove called telephone numbers on the called party's request, and whether this should require the account holder's permission.

Other sensitive information that could be explicitly excluded (sub-section 7(2))

We support certain data sets being explicitly excluded under section 7(2) of the draft Designation, on the grounds they may reveal sensitive information about the consumer:

- the location where mobile calls are made or received; and
- whether a consumer is participating in a financial hardship arrangement.

Treasury's final report did not recommend the designation of information about whether a consumer is participating in a financial hardship arrangement. Treasury found there was a potential risk of this information influencing the products offered to consumers, resulting in discrimination.¹

Treasury could also consider explicitly excluding information about whether a consumer is using priority assistance services or requires additional assistance due to a medical condition.

1.3 Information about retail offers or supplies of products (section 8)

We support the inclusion of information currently captured under section 8 of the draft Designation. This includes information generally contained in a Critical Information Summary or the Terms and Conditions, as well as other information about products, such as the prices consumers have negotiated with providers.

The inclusion of such information will assist consumers in understanding the products and services they have signed up for.

¹ Treasury, p. 23, [Consumer data right: Telecommunications sectoral assessment](#), Treasury website, 23 November 2021.

2 Future considerations for development of CDR in the telecommunications sector

We support the continuation of strong privacy safeguards for CDR in the telecommunications sector, including the requirements for informed consent under the OAIC's CDR Privacy Safeguard Guidelines.²

Due to the sensitive nature of information linked to telecommunications services, strong privacy safeguards are essential. As CDR develops in the telecommunications sector, Treasury could also consider the following safeguards:

- what accreditation of ADRs will look like; and
- how a retail customer may view, and thereby control, their information.

Finally, we continue to support a 'no wrong door' approach to complaint handling in the sector, and encourage Treasury to use the existing OAIC frameworks for complaints about the CDR. We would welcome discussions around the role our office can play within the CDR scheme.

We look forward to further opportunities to comment on the CDR at the rule-making stage.

Yours sincerely,



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² OAIC, [CDR Privacy Safeguard Guidelines](#), OAIC website, 9 June 2021.