

Stepping towards trust

Consumer Experience, Consumer Data Standards, and the Consumer Data Right

The Consumer Policy Research Centre (CPRC) is an independent, not-for-profit consumer research organisation. Our goal is to achieve a fair outcome for all consumers. We conduct research across a range of consumer markets, with a focus on consumer decision-making, consumer data, energy, housing, and the online marketplace. We work collaboratively with academia, industry, government, and the community sector to inform policy reform and build capability in practice.

The Data Standards Body (DSB) supports the **Data Standards Chair**, who is responsible for setting and reviewing consumer data standards (Data Standards) for the Australian Consumer Data Right (CDR).

DSB have commissioned CPRC to provide current research and advice on consumer needs, expectations, risks and opportunities to inform the development of standards that will support implementation of a trustworthy CDR that creates positive consumer outcomes through fair and efficient market behaviour.

The logo for the Data Standards Chair consists of a solid blue rectangle containing the text "DATA STANDARDS CHAIR" in white, bold, uppercase, sans-serif font, arranged in three lines.

**DATA
STANDARDS
CHAIR**

Contents

About the project	1
About this report	2
Section 1: Importance of consumer experience to the effectiveness of CDR	3
Section 2: Data sharing: what matters to consumers?	9
Section 3: Are the CDR's CX principles, standards and guidelines addressing consumer needs	18
Section 4: Testing CDR policy goals against consumer feedback and existing research	33
Section 5: Concluding remarks and recommendations	37
Appendix 1: Consumer manifesto for open banking (UK)	41

About the project

The Consumer Policy Research Centre (CPRC) has been engaged to prepare a series of consumer research reports for the Data Standards Body (DSB).

The reports will cover subjects identified by DSB, CPRC and consumer/community groups as being priority topics. They will connect Australian and international research to the perspectives of local community services, providing an evidence base for the ongoing development of data standards for, and staged implementation of, Australia's Consumer Data Right (CDR). The project will derive findings through direct engagement with community sector stakeholders; reference to CPRC's broader consumer policy research; and analysis of existing material relating to consumer experiences of data markets, the CDR, and comparable consumer data reforms elsewhere.

The Data Standards Body is tasked with consulting with all stakeholders so that sectoral differences, as well as the views of consumer groups, are considered in the standards to "make sure user protections remain at the heart of the standards."

The Treasury, *Consumer Data Right overview*, p17

Views of community services stakeholders are being sought as contextual subject experts on consumer needs and expectations for data sharing. As well, we anticipate the value of

Outcome Principle 3 of the Consumer Data Standards requires that:

Data sharing provides a positive consumer experience ... CDR consumers have simple, informed, and trustworthy data sharing experiences that provide them with positive outcomes over the short and long term.

this engagement to be of deeper benefit in generating awareness and positive perceptions for the CDR, seeding community sector capability to support long-term success.

Through consultation, we will encourage community sector participants to bring their context-specific expertise to reflect on areas of opportunity (and risk) that they see in CDR for a diversity of consumers. We aim to identify knowledge that helps the CDR to function effectively as an enabler of consumer-informed products and services that strengthen

outcomes for all consumers. We hope to also uncover sound 'data for good' opportunities where the CDR may be used to support consumers experiencing hardship or vulnerability.

CPRC's independent research provides evidence of consumer needs, experiences, views, and expectations to complement industry input into the CDR. Our research will help promote consumer voices in CDR development and implementation, a lack of which¹ might otherwise jeopardise consumer trust in the CDR and the pursuit of a CDR that is **for the consumer, about the consumer, and seen from the consumer's perspective**².

Written submissions representing consumer interests average **less than 20%** by number of public submissions to CDR consultations.

¹ CPRC survey of published submissions to the CDR consultations led by Treasury and ACCC during September 2018 – February 2020.

² Principle 1 of the CDR Principles, The Treasury (2019) [Consumer Data Right Overview](#), p1.

About this report

This report reviews the alignment of consumer needs and expectations with the consumer experience (CX) principles, standards, and guidelines issued by the Data Standards Chair as part of Australia's new Consumer Data Right (CDR). It outlines:

- the importance of consumer experience to an effective CDR, and the factors affecting how consumers choose to assign and generate value in their data, which are likely to influence consumer participation in CDR
- key issues nominated by consumers as necessary for positive outcomes in data sharing, digital markets, and open banking
- an overview of how well the CDR and consumer data standards are placed to facilitate simple, informed, and trustworthy data sharing against these key consumer issues
- a high-level mapping of broader CDR policy goals against consumer research and international practice.

Synopsis

Section 1 highlights the importance of consumer experience for building a trusted and effective data portability framework. It locates the Consumer Data Standards within the CDR ecosystem and discusses how consumers value data.

Sections 2 and 3 expand on what matters to consumers, and how well the CX standards are currently configured as supports for the needs and expectations of Australian consumers using the CDR.

Section 4 provides a table mapping CDR's policy goals against CX findings, local insights and CDR public consultation inputs, and international examples.

Section 5 outlines a consolidated list of recommendations and suggests some areas of focus for extending and strengthening the CX standards.

Appendix 1 offers an example of a public awareness tool setting out clear benchmarks for consumers, policymakers, and product providers regarding the standards and priorities that are needed to make open banking work for consumers (UK example).

Note on terminology

The report may refer to Consumer Data Right (CDR) principles, Consumer Data Standards (CDS) principles, and Consumer Experience (CX) principles.

CDR principles set out a high-level foundation for the Consumer Data Right framework in its entirety. These principles, as expressed by The Treasury, are reproduced at Fig.1.

CDS principles, classified as *Outcome Principles* and *Technical Principles*, are the basis for the development of standards for the Consumer Data Right. Current and archived versions are published by DSB on the Consumer Data Standards website: <https://consumerdatastandards.gov.au>

CX principles provide more specific guidance toward achieving standards required for Outcome Principle 3 of the CDS Principles: *Data sharing provides a positive consumer experience*. The DSB's CX principles (current at time of writing) are reproduced in full at Fig. 3 (page 18).

Section 1:

Importance of consumer experience to the effectiveness of the CDR

The Australian Consumer Data Right (CDR) has long term application for economy-wide cross-sector reforms to encourage choice and competition through consumer data sharing, commencing via a staged roll out through designated sectors of the economy. As such, CDR differs from data reforms such as the European General Data Protection Regulation (GDPR) and the California Consumer Privacy Act (CCPA). Its present iteration is – not least because of an initial roll-out in the banking sector – more closely aligned with the trajectory and concerns of open banking implementations³, although it goes much further in its intent.

Extension to a whole of economy eco-system is part of the CDR's future direction. For now, it is outside the scope of the CDR to provide comprehensive economy-wide protections for data sharing. Rather, the legislation seeks to establish a safe mechanism for Australian consumers to obtain access to, and authorise transfer of, specifically prescribed sets of their consumer data⁴. Limiting the application of CDR to designated datasets does not mean that the reform disregards how consumer rights may be impacted by data portability practices and processes. A clearly defined objective for a consumer centric CDR is presented as its first principle (see Fig. 1, following page).

Consumer trust is crucial for CDR's success. Trust is a complex issue that applies to consumer experience and perception of CDR in a variety of ways: trust that the system is secure; trust that the law will protect consumers while using it; and trust that businesses are delivering products and services that are safe, fair, and of good quality. In building foundations for a trusted CDR, it is necessary for Consumer Data Standards to be informed by both consumer and industry stakeholders. To assist this, the Data Standards Chair has appointed Advisory Committees for the Banking and Energy sectors, with representatives of industry and consumer interests (at a current ratio of 10:2 and 11:3, respectively)⁵. As well, the DSB is operating a dedicated CX workstream for standards development.

Consumer Data Standards, including standards for consumer experience, are a core element in the CDR's multi-regulatory framework.

*Division 6 of the establishing legislation, **Treasury Laws Amendment (Consumer Data Right) Act 2019**, sets out provisions relating to data standards and their regulation, under which the Data Standards Chair is responsible for making data standards to facilitate transfers of CDR data in accordance with rules set by the ACCC.*

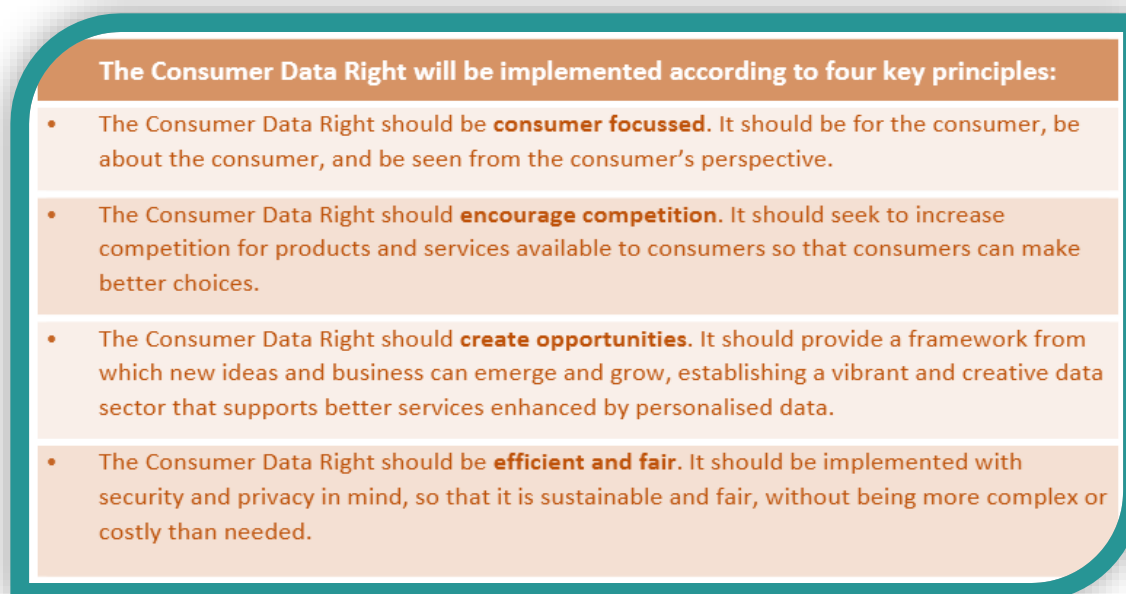
While the Consumer Data Standards are not themselves a legislative instrument, where CDR rules require compliance with specific data standards, such standards are considered binding, and have legal contractual effect.

³ This is consistent with the CDR's origins as an outcome of the 2017 *Review into Open Banking in Australia*, while looking toward future scope as an economy-wide 'comprehensive data right' as recommended by the Productivity Commission's *Inquiry into Data Availability and Use* in May of the same year.

⁴ Minutes of the first meeting of the DSB Banking Advisory Committee, July 2018.

⁵ Minimum legislative requirement for the Data Standards Advisory Committee is a single committee with one or more (each) of consumer and industry representatives; Section 8.4, *Competition and Consumer (Consumer Data Right) Rules 2020*. The current ratios reflect a need for strong industry representation in development of workable technical standards that are within the capacity and capability of businesses to implement.

Fig. 1: CDR's Policy Principles⁶



With Treasury's policy goals for CDR having situated the consumer at the heart of the CDR framework as the first implementation principle (Fig. 1; above), the second and third CDR principles seek to promote competition, choice, and opportunity for innovation. Consumer experience is again a critical driver of success: achieving these tenets relies on consumer uptake of new services that emerge as a result of CDR; and on consumers having a quality of experience that encourages their trust and appetite to continue data sharing.

Successful uptake of the CDR regime is predicated not only on industry sectors perceiving value in consumer data and directing it into new products and services, but also on consumers ascribing similar value to their data or the experiences, products and services it may enable – and on their preparedness to transfer this value as dynamic actors in the data economy. This speaks to the fourth and final principle of the CDR: efficiency and fairness.

Accumulating an evidence base of consumer motivations, and monitoring consumer responses to CDR over time, will play an important role in balancing requirements for fairness and efficiency in the CDR.

The value propositions of consumer data for vendors of goods and services transacting in digital marketplaces are well understood⁷, and industry representatives have provided considerable input into CDR development with regard to the technical and regulatory thresholds at which they perceive such value propositions to be viable. There has been less input into the CDR process to date that engages deeply with how and why consumers choose to assign value to their data, and the thresholds at which the CDR's data portability propositions may begin and cease to be tenable for consumers. The following pages outline

⁶ The Treasury (2019), [Consumer Data Right Overview](#), Commonwealth of Australia, p1.

⁷ See, for example: UK Competition and Markets Authority (2015) [The commercial use of consumer data: Report on the CMA's call for information](#); and, more broadly, work produced by the World Economic Forum's Centre for the Fourth Industrial Revolution.

why an understanding of consumers' relationship with data is fundamental to realising their preparedness to engage with benefits and risks of data sharing, and choices to use CDR.

Valuing consumer data

In drawing together results from DSB's own CX research with data from other studies into consumer behaviours and expectations when transacting in digital markets, our findings emphasise the significance that consumer safety, personal control, and trust hold in consumer decision making and uptake of data services.

Spiekermann and Korunovska (2017) identify three dimensions influencing the value perception of personal data for consumers of digital services⁸:

- psychological ownership⁹ over their data and engagement with the data
- design and technical organisation of the marketplace in terms of data portability, data storage and data control
- how users perceive the morality of data markets.

The first of these, people's psychological relationship with their data speaks to CX and communication needs for CDR processes. Acknowledging the distinction between legal rights (which are part of a broader relationship with data) and emotional response (as part of a psychological relationship with data) plays an important part in understanding consumer motivations and behaviour regarding data sharing & value; for example, by recognising that people are likely to be more engaged with portability of their datasets when they can clearly perceive holding a share in ownership and control.

The second dimension, organisation and technical design of protocols for the data market, is unambiguously within the remit of CDR rules and standards.

The third dimension likely to affect how CDR consumers value their data – perception of the morality of markets – is similarly tied to the regulatory sphere and will be contingent on consumer experience of accountability and redress in CDR ecosystem.

92% of consumers and business buyers globally are more likely to trust companies that give them control over what data is collected about them.

80% believe that the experience a company provides is as important as its products and services.

Salesforce Research (2018) *State of the Connected Customer report.*

⁸ Spiekermann, S. and Korunovska, J. '[Towards a value theory for personal data](#)' *Journal of Information Technology* (2017), 32, pp 62-84. While Spiekermann and Korunovska's value theory is based on data volunteered within a social networking platform, rather than exchange of personal data accumulated through transactional behaviour, consumer studies suggest similar considerations are likely to affect how CDR consumers value their data.

⁹ Ibid, p64: "Psychological ownership describes people's perceptions of property or possession toward tangible and intangible goods". People will be more engaged and place more value on their consumer data if they are psychologically invested in perceiving it to be 'theirs' (even where, legally speaking, it isn't owned by them); and where they have agency over how it is shaped and used.

Similar findings in relation to consumer engagement with data value propositions and portability are echoed in key messages of a report prepared by the Ipsos MORI Social Research Institute for Barclay's bank¹⁰:

“...neither the existence of the technological infrastructure alone, nor the initial attractiveness or otherwise of specific use cases facilitated by the data sharing which Open Banking allows, will necessarily determine the success of the initiative ... consumers' personality, attitudes and emotions will be crucial.”

Valuing consumer experience

In developing data standards to support implementation of the CDR, the Data Standards Chair and the DSB are accountable for designing for more than technical issues of data transfer and security. As well as requirements for Application Programming Interfaces (APIs) – in the form of common standards for the APIs that will be used to share machine readable data between CDR users – responsible design of protocol for the exchange of consumer data under CDR requires sensitivity to human contexts of data sharing, including consideration of consumer vulnerability, inclusive user interfaces, and alertness towards privacy implications and other ramifications of automation.

Validating use of principles-based frameworks by the Chair and the CDR, a 2010 white paper prepared for the US Office of the National Coordinator for Health IT noted that “in selecting and applying a particular consent model, appropriate guidance in the form of higher-level principles or recommendations is critical”¹¹.

The CDR Consumer Data Standards are guided by a set of CDS Principles. These were established at the outset of development (mid-2018) and subsequently reviewed in early 2020. Findings of the review recognised that when the CDS Principles were first defined “the importance of consumer experience to the standards development process was underestimated”¹². From version 1.3.0 of the Consumer Data Standards, language addressing consumer experience has been strengthened, and five new CX principles directed specifically towards consumer experience added to the standards¹³:

- **CDR is consumer-centric**
- **CDR is accessible and inclusive**
- **CDR consumer experience is comprehensible**
- **CDR consumer experience is simple and empowering**
- **Consumer consent is current**

This response speaks to the Data Standards Chair's commitment to developing Consumer Data Standards that maintain visibility and protection of the consumer in the system.

¹⁰ Ginnis et.al. (2018) [Open Banking: Data Sharing Dilemmas](#), p1.

¹¹ Goldstein, M. and Rein, A. (2010) [Consumer Consent Options for Electronic Health Information Exchange: Policy Considerations and Analysis](#).

¹² Data Standards Body Technical Working Group and CX Working Group, [Decision 097 – Principles Review](#), p3.

¹³ These headline CX Principles are further articulated within the Consumer Data Standards, with full text of the CX Principles reproduced as Fig. 3 of this report (page 20).

In specifying how accredited parties within a sector are to comply with requirements of the CDR Rules, the Consumer Data Standards are aimed primarily at Data Holders and Accredited Data Recipients rather than consumers. The Chair, however, recognises that consumer experience (CX) is a vital aspect of the Standards' function. Consumer consent is a fundamental aspect of CDR, dealt with extensively in CDR Rules Division 4.3, the object of which is to ensure that consent provided by a CDR consumer is: voluntary, express, informed, specific to purpose, time limited, and easily withdrawn¹⁴.

Balancing comprehension with ease-of-use is a known CX challenge when dealing with issues of consent. Recent European studies looking at the implementation of consent management in response to GDPR data reforms attest that designing for meaningful consent causes significant challenges for regulators seeking to generate enough friction to ensure consumers are providing express and meaningful consent, while avoiding excessive cognitive load and consent fatigue that lead to poor data practices and low uptake¹⁵. The authors of one study (Nouwens, et.al.) noted:

“The results of our empirical survey of CMPs [consent management platforms] today illustrates the extent to which illegal practices prevail, with vendors of CMPs turning a blind eye to — or worse, incentivising — clearly illegal configurations of their systems ... Enforcement in this area is sorely lacking.”

In CDR consultations to date, fintechs have been the group most vocal in nominating consent fatigue as a reason for “smoothing” consent requirements of CDR systems¹⁶. This is a legitimate factor to consider in data standards design, but one that should be balanced by a recognition that service providers have an incentive to prioritise service uptake over other factors. In seeking to balance the interests of consumer and commercial stakeholders CDR regulators may be able to draw on comparable tensions between provider and consumer use cases that have been debated in the health sector for over a decade¹⁷:

“It is imperative that deliberations are informed by research regarding the effectiveness and impact of various consent options, broader policy landscape, and assessment of the needs of those most affected by the consent decision.”

¹⁴ Australian Consumer and Competition Commission (ACCC): *Competition and Consumer (Consumer Data Right) Rules 2020*.

¹⁵ See, for example: Nouwens et.al. (2020) [Dark Patterns after the GDPR: Scraping Consent Pop-ups and Demonstrating their Influence](#), Computer Human Interaction Annual Conference on Human Factors in Computing Systems (CHI 20), April 25–30, 2020, Honolulu, USA; and Utx et.al. (2019), [\(Un\)informed Consent: Studying GDPR Consent Notices in the Field](#), Conference on Computer and Communications Security (CCS '19), November 11-15, 2019, London, United Kingdom .

¹⁶ Public submissions to CDR consultations conducted by the Treasury and the Australian Consumer and Competition Commission (ACCC) 2018-2020.

¹⁷ Goldstein and Rein (2010).

Section 2:

Data sharing: what matters to consumers?

Consumer research and government inquiries tell us that many people are disempowered or at a disadvantage in their relationships with data holders and handlers¹⁸. Consumers are seeking a more balanced distribution of knowledge and greater choice about what data is collected about them and the purposes to which it is put. People have an expectation of data reform to provide more transparency in how their data (including data supplied or generated because of consumer transactions) is collected, manipulated, stored, and shared¹⁹.

CPRC's most recent Australian consumer survey²⁰ found that:

- 95% of respondents agree or strongly agree that companies should give an option to opt out of certain types of information they can collect, use and share
- 94% agree or strongly agree that companies should be open about how personal data is used to assess eligibility on products and services
- 92% think organisations should only collect consumer information currently needed for providing products or services
- 90% think it is very or somewhat unacceptable for companies to use their data without their knowledge to assess their eligibility for loans or insurance
- 89% think it is very fair or fair for them to be able to request companies to delete their personal information
- 83% think it is very or somewhat unacceptable for companies to make use of their payment behaviour data to assess their eligibility for essential products and services.

More than **8 in 10** consumers surveyed in relation to the California Consumer Privacy Act ranked it as **highly important** to be able to obtain a copy of information that companies hold about them, and to request companies delete personal information.

Goodwin Simon Strategic Research: *Summary of Key Findings from California Privacy Survey*

Contrary to consumers' desire for transparency about data collection and use, evidence collected by researchers at MIT, UCL and Aarhus University highlights growing use of online strategic complexity and 'sludge'²¹ by firms to constrain meaningful choices or actions taken by consumers, often leading to poor consumer outcomes²². Users and designers of online

¹⁸ For example, the ACCC's *Digital Platforms Inquiry* (2019) uncovered widespread information asymmetries to be present in online markets, with several key recommendations aimed at strengthening consumers' transactional bargaining power, and control over their data.

¹⁹ Nguyen, P. and Solomon, L. (2018) *Consumer data and the digital economy*, Melbourne: CPRC; and Goodwin Simon Strategic Research (2019) *Summary of Key Findings from California Privacy Survey*.

²⁰ Roy Morgan for CPRC, *Data and Technology Consumer Survey report – April 2020*, pp 5-6.

²¹ 'Sludge' is a term coined by behavioural economist and Nobel Laureate Richard Thaler (building on his concept of the 'nudge'). It refers to online practices where companies add unnecessary volume or complexity of information or other deliberate friction intended to exploit consumers' cognitive biases and behavioural weaknesses (for example, voluminous and frequently changing privacy policies; auto-renew payment policies that require substantial effort to unsubscribe from). Sludge is discussed at length in a discussion paper by Elizabeth Costa and David Halpern (2019), *The behavioural science of online harm and manipulation, and what to do about it*.

²² Nouwens et.al. (2020).

markets and data services explain that even where information and choices about data disclosure and use are made available, these are often cloaked in unwieldy terms of use, or subverted by behavioral nudges and dark patterns²³.

Customer drop off in online transactions (consumer choices not to complete transactions) is an issue of substantial interest to businesses, regulators, and consumer advocates. Both too much and too little friction are seen as contributing factors behind this behaviour: some consumers find the volume of information and number of steps required in accepting and authenticating data sharing terms of use overwhelming; others do not complete a transaction because they are not being given sufficient clarity and reassurance around how their data will be used to meet their personal requirements for data sharing.

Faced with uncertainty and often time-pressured by daily life, many consumers choose a path of least resistance: some agree to terms they are not comfortable with (retaining a negative or mistrustful view of the transaction, affecting future interactions with providers); others abandon the transaction altogether. Both these results have net negative impact for consumers and markets, lowering consumer trust and confidence in market participation and eroding fair competition through limiting consumer capacity to exercise meaningful control over their market choices. As well, where individuals are denied meaningful opportunity for agency in their choices, consumer disengagement opens the door to predatory and potentially discriminatory market practices, such as opaque or unscrupulous data profiling of converting customers, or loyalty taxes on static ones.

Previous CPRC research has shown that even where consumers feel coerced or confused about what they are sharing, they will continue to voluntarily enter data sharing arrangements²⁴. Confirming this still to be the case, a consumer survey undertaken by Roy Morgan for the CPRC in 2020²⁵ found almost seven in ten Australians (69%) had accepted the terms for multiple products or services in the past year even though they felt uncomfortable with them, with 12% of respondents stating they had accepted terms for *all* products or services offered in that period, even though they felt uncomfortable with them. Amongst those who accepted a Privacy Policy or Terms and Conditions without feeling comfortable with them, 75% explained that it was the only way for them to access the products or services.

The evidence is clear that consumers today are regularly entering into data transactions where they are not comfortable with – or do not comprehend – the terms on which they are making their data available.

It is vital for policymakers and regulators in designing the CDR to take into account the broader regulatory settings within which this scheme sits. Many of these laws and regulations (such as the Privacy Act) themselves have contributed to disempowerment of consumers over their data due to their inability to provide consumers with meaningful transparency, control, and choice over their personal information. This is the lived experience that consumers will be bringing to the CDR regime.

²³ Ibid. Dark patterns is a term coined by UX specialist Harry Brignall in 2010 to describe digital practices and interface design crafted to draw users into taking a course of action without full comprehension of implications or alternative actions. Common examples include default bundling of optional insurance or other add-ons with purchases, signing consumers up to mailing lists by default, and collecting data for profiling purposes without clear disclosure. See: www.darkpatterns.org and <https://testimonium.co/> (pages accessed 31 July, 2020).

²⁴ Nguyen and Solomon (2018) *Consumer data and the digital economy*, Melbourne: CPRC, p31.

²⁵ Roy Morgan for CPRC, *Data and Technology Consumer Survey report – April 2020*, p5.

In assessing the outcomes of the CDR it is therefore important to measure not only willingness to share (uptake of CDR enabled services), but also the consumer benefit or costs encountered as a result of sharing data with accredited parties.

If propensity to share is misread as consumer comfort to share, the risk of adverse effects for consumers – and risks for the long-term success of CDR – will increase. In the absence of meaningful control and visibility over data, consumers report having limited trust that companies who collect and use their data are acting in their interests. In 2018, a worldwide survey engaging over 6,700 consumers and business buyers found that over half of respondents did not believe that companies they engage with online have their best interests in mind, and 50% of consumers are confused about how companies use their data²⁶.

Key issues for consumers

The relative importance ascribed by consumers to key issues affecting their use of digital markets, data portability, and open banking vary (with demographics and survey design among the factors that influence results). The core themes identified by consumers through research, however, remain largely consistent²⁷. These are:

- *trust and transparency*
- *comprehension and consent*
- *privacy and security*
- *fairness and accountability*
- *retaining control over their data.*

A further theme, while not always explicitly identified by consumers, cuts across all of these areas:

- *inclusion and accessibility.*

Understanding how baseline consumer issues are likely to affect consumer experience and use of the CDR in relation to identified priority topics such as consumer vulnerability, will be a focus for CPRC's community sector consultations and subsequent reports.

These issues share overlap with many of the tenets articulated in the United Nations' *Guidelines for Consumer Protection*²⁸, which outlines eleven general principles covering the 'legitimate needs' of consumers, as well as six further principles establishing benchmarks for good business practices for conducting online and offline commercial activities with consumers. As a core support for consumers, we highlight the UN's identification of the availability of effective consumer dispute resolution and redress as being a general principle for consumer protection. We suggest that to meet consumer needs and expectations, the consumer experience of dispute and redress processes must be recognised as an integral part of the consumer experience for CDR and considered equally accountable to consistent and inclusive data standards.

²⁶ Salesforce Research (2018) [State of the Connected Customer report](#), p7 and p19.

²⁷ Based on CPRC analysis of consumer surveys, CX research outputs of the DSB, and published evaluations of international data governance reforms and open banking implementations.

²⁸ United Nations Conference on Trade and Development (2016) [United Nations Guidelines for Consumer Protections](#), UN: Geneva & New York.

Why CX?

Inclusion and accessibility are both a marker of best practice²⁹ and a key issue for consumers. Regulatory commitment to maintaining a CX stream as part of the Consumer Data Standards is a positive indicator for implementing a CDR that will be of benefit to consumers beyond those who already have strong capability to negotiate in the data sector.

A report documenting DSB's Phase 3 CX research explains³⁰:

“Instead of focusing on those who are already likely and able to adopt CDR, we focus on removing the barriers to CDR being inclusive and accessible, which will make CDR easier and simpler to access for everyone.”

To this effect, the CDR's Consumer Data Standards include a set of CX Standards (detailing mandatory CX requirements), supplemented by optional CX Guidelines to support creation of conforming implementations by CDR Data Holders and Accredited Data Recipients. The intent is to provide parameters and design guidance for a CDR ecosystem that optimally facilitates consumer comprehension and express consent in CDR data sharing practices.³¹

To date, DSB's CX workstream has directly involved more than 260 individuals in design testing, representing a range of consumer demographics and personal characteristics. The CX research has sought to reflect the composition of Australian consumer markets proportional to census data, although difficulties have been acknowledged with recruiting to this standard³². Analysis of participant demographics as published in the DSB's CX research reports suggests cohorts with whom further consumer testing for CDR would be desirable include: First Nations (persons identifying as Aboriginal and Torres Strait Islander); individuals with low digital literacy; and wider geographic coverage of people living in regional, rural, and remote locations³³. CX research participants have been recruited through referrals and screening surveys, with some interviews conducted online and the majority as face-to-face encounters. Consumers have been provided with design scenarios and prototypes to test the comprehensibility, clarity, and ease of use of CDR concepts, processes, and interfaces in relation to issues including consent, deidentification and deletion, trust and propensity to share data, and joint accounts. A number of these issues will be revisited in the forthcoming CPRC reports from the perspective of community sector organisations.

Consumer experiences and outcomes differ vastly according to whose needs, preferences, characteristics, and interactions are being considered. International studies evaluating the reach of open banking in the UK, and consumer law implications of the EU's single market, show the concept of the 'average consumer' to be redundant³⁴. Not only are consumers

²⁹ Mieczakowski, Hessey, and Clarkson (2013) 'Inclusive Design and the Bottom Line: How Can Its Value Be Proven to Decision Makers?' in Stephanidis and Antona (eds.) *Universal Access in Human-Computer Interaction. Design Methods, Tools, and Interaction Techniques for e-Inclusion*. UAHCI 2013. Lecture Notes in Computer Science, vol 8009. Springer, Berlin, Heidelberg, pp 67-76.

³⁰ Data Standards Body (2020) CX Report: [Consumer Experience Research Phase 3: Round 1 and 2](#), p8.

³¹ Data Standards Body (2020) *Consumer Data Standards*, v1.3.0.

³² Data Standards Body (2020) CX Report: [Consumer Experience Research Phase 3: Round 1 and 2](#), p7.

³³ Data Standards Body (2019, 2020) CX reports for Phases 1,2, and 3.

³⁴ For example: Reynolds, Chidley, et.al. (2019) [Consumer Priorities for Open Banking](#), p15; and Leczykiewicz, D. and Weatherill, S. (eds.) (2016) *The Images of the Consumer in EU Law: Legislation, Free Movement and Competition Law* Bloomsbury.

themselves diverse, but so too are the choices of normative consumer paradigm. For example, Vanessa Mak outlines a spectrum of discrete consumer images as presented in different European laws³⁵, ranging through the ‘rational’ consumer who is “defined purely in economic terms [with the focus] on their role as a market participant, not on other roles that individuals may have in society ... [and] is assumed to be the best judge of their own interest, to take rational decisions, and to do so within the constraints of their economic resources”; the ‘autonomous’ consumer who is free to decide whether and with whom to contract, but who also bears absolute responsibility for their choices and outcomes, being assigned protections only where they have been intentionally misled; and, at the other end of the spectrum, the ‘Calimero’ consumer³⁶ wherein the average consumer is assumed to be an inherently weaker party with limited capacity for understanding the market. Mak provides an analysis of what the normative approaches behind each of these representations tells us about both the consumer protections and the policy goals of the instruments in which they appear, concluding³⁷:

“That different images of the consumer exist does not mean, however, that no effort should be made to keep reassessing regulation in these areas. Businesses and consumers benefit from transparency and predictability of outcomes — that is, legal certainty — and it would help if regulation pursued these goals. Perhaps by looking at the images of the consumer, we can determine with greater precision which balance should be struck at different levels of regulation between responsibility, empowerment and protection.”

In the local context, CPRC research validates the need to consider the consumer through a variety of lenses, rather than a single paradigm – and, where a particular view is accepted as representing an ‘average consumer’, to understand the intent and implications of doing so. Our recent *Markets for People* report delves into the realities of different decision-making styles, autonomous capabilities, and consumer engagement capacities within complex markets.³⁸ As well, our research on consumer vulnerability for the Australian Energy Regulator emphasises that consumer lives are complex and intersectional, and their needs, vulnerabilities, and capabilities are both diverse and liable to change. Sharing common ground with Mak’s assessment, this report explains³⁹:

“Although anyone can experience vulnerability at some point in their lives, regulators need to be able to prioritise their vulnerability work using data analysis and other tools, to ensure expectations are clear and their work is manageable and impactful.”

³⁵ Mak, V. (2016). [‘The consumer in European regulatory private law: A functional perspective on responsibility, protection and empowerment’](#) in Leczykiewicz and Weatherill (eds), pp 381-400.

³⁶ Ibid, p 389. Mak explains the term ‘Camilero consumer’ with reference to the cartoon character Camilero, a small chicken that frequently gets into trouble and does not quite understand why grown-ups around him are angry at him for his clumsiness. His catchphrase is: ‘They are big, and I is [sic] small and it’s not fair, oh no!’”

³⁷ Ibid, p 400.

³⁸ Martin-Hobbs, B. and O’Neill, E. (2020) [The experiences of older consumers – towards markets that work for people](#), Melbourne: CPRC. See, for example, pages 47 and 54.

³⁹ O’Neill, E. (2019) [Exploring regulatory approaches to consumer vulnerability](#), Melbourne: CPRC, p8.

No longer having clear default to a familiar ‘average consumer’ is not a situation unique to the data sector, with many industries – among them health, architecture, and education – increasingly turning to inclusive design as a strategy to improve overall functionality of systems and product offerings (rather than attempting to design for an average consumer paradigm). The British Standards Institute explains inclusive design as: “design of mainstream products and/or services that are accessible to, and usable by, as many people as reasonably possible ... in a wide variety of situations ... without the need for special adaptation or specialized design.”⁴⁰

Designing for diversity presents both challenges and opportunities for data sharing service operators and regulators. Just as consumers may face challenges engaging with CDR-enabled products, business operators and service providers also face challenges in developing the underpinning technology and market knowledge necessary to drive value for consumers, and require support from government to build trust and stimulate the market⁴¹.

Strategies for supporting both consumers and providers of open banking, based on providing value to all sectors of the market, are considered in a 2019 report for the UK Open Banking Implementation Entity (OBIE)⁴². This report also republishes the UK’s *Consumer manifesto for open banking*, a document collaboratively produced in 2018 by a consortium of consumer and community sector advocates with financial services expertise (ref. Appendix 1). Faith Reynolds, Consumer Representative on the Open Banking Implementation Entity explains⁴³:

“What we all agree on is the need for providers to demonstrate a commitment to good consumer outcomes in the form of safe, useful, and affordable products ... There’s a real opportunity to re-align consumer and commercial interests. If we can work with the industry to deliver on the five principles ... everyone should win.”

Implementations of CDR in the banking and energy sectors are creating rules and standards that affect how data relating to all Australians will be treated. Use of data to inform provision of services in markets (especially essential markets) has the potential to profoundly affect quality of life for all consumers, bringing a social responsibility and a civic expectation that government will exercise due care in establishing consumer data portability frameworks that not only respect the circumstances of a diverse population, but also adapt to how rapidly these circumstances can change⁴⁴.

Value propositions of CDR for consumers will continue to evolve as the regime matures, as more providers become accredited, and as additional sectors of the economy come into scope. It is unrealistic to anticipate that all consumers will (or will be able to) engage with the CDR in its initial stages, and many among the first waves of CDR customers are likely be tech savvy early adopters. However, not all early adopters will have high levels of digital – or financial – literacy. Early adopters will also include needs based CDR consumers, whose use of CDR may be initiated and/or mediated as part of community services involvement to mitigate hardship or vulnerability. Initial iterations, and an inclusive design approach, have a

⁴⁰ British Standards Institute (2005), Standard BS 7000-6:2005: ‘Design management systems - Managing inclusive design’.

⁴¹ Reynolds, Chidley, et. al. (2019) [Consumer Priorities for Open Banking](#), p35.

⁴² Ibid.

⁴³ See: <https://financeinnovationlab.org/a-consumer-manifesto-for-open-banking/> (accessed 31 July 2020).

⁴⁴ Samans R. and Davis, N. (2017) [Advancing Human-Centred Economic Progress in the Fourth Industrial Revolution](#) (White Paper Policy Brief for G20/T20). Geneva: World Economic Forum.

vital role to play in encouraging a CDR ecosystem that can support the needs and capabilities of consumers (including early adopters) whose circumstances include low levels of digital inclusion, or high levels of vulnerability.

A key threat for achieving inclusion and accessibility in the CDR ecosystem is the risk of creating two tiered markets across the board. This would see consumers with low levels of digital inclusion excluded from the benefits of CDR, while those who are digitally skilled gain better access to the CDR and improved offers for consumer products and services. The most recent report of the Australian Digital Inclusion Index notes that “gaps between digitally included and excluded Australians are substantial and widening for some groups”.⁴⁵ The rate of digital inclusion is reported by the Index to be significantly higher in capital cities, yet approximately one third of Australians live outside these areas. Low-income households, older Australians, Indigenous Australians, persons identifying with a disability, and those with limited formal education attainment are additional demographics where low digital inclusion is reported. As digital markets evolve, a fair CDR should take steps to ensure consumers residing outside capital cities, or otherwise battling digital exclusion, are not being left behind.

It is important that CDR does not inadvertently encourage amplifications of existing market inequality, whereby vulnerable or digitally excluded consumers would face higher prices or lower quality services. For example, simplifying or facilitating the process of ‘switching’ between providers is often given as a positive use case for CDR, on the basis that it will help mitigate unfair ‘loyalty taxes’⁴⁶ being leveraged on longstanding customers. However, for consumers who are facing digital exclusion, the opportunity to access better offers may not materialise to the same extent. This could see a widening of the gap between consumers relative to digital inclusion: entrenching rather than improving known market issues.

Similarly, disproportionately high levels of utilities debt and disconnection, “problematically marketed through unsolicited sales”, that has been identified by community services as a key consumer issue for Aboriginal communities in Victoria⁴⁷, highlights another example where opportunities for socially responsible CDR products are likely to co-exist with the potential for exacerbating vulnerabilities.



We suggest that lived experience of vulnerable, marginalised, and digitally excluded consumers should be valued as a key evidence source for understanding where CDR data can provide broader social and economic benefits while improving consumer outcomes.



We also suggest that measurement of indicators to gauge the impact of CDR’s accessibility and inclusion standards should include monitoring price spread shifts for online and offline customer segments in CDR market sectors.

⁴⁵ Thomas, J, et.al. (2019), *Measuring Australia’s Digital Divide: The Australian Digital Inclusion Index 2019*, RMIT University and Swinburne University of Technology, Melbourne, for Telstra, p6.

⁴⁶ For example, in October 2019, the Australian Financial Review reported the book value of Australian mortgage loyalty tax having doubled in the space of four months: <https://www.afr.com/companies/financial-services/bank-loyalty-tax-has-doubled-to-6b-since-june-20191028-p534v6> (accessed 31 July 2020).

⁴⁷ Consumer Action and Victorian Aboriginal Legal Service (2020) *Consumer Issues in Victorian Aboriginal Communities: Integrated Project Final Report 2020*, p6 and pp14-15.

Fig. 2: Influences on consumer data sharing



Beliefs, attitudes, and perceptions



Trust and value proposition



Personal experience and outcomes

UK research tells us the primary context in which people make decisions about Open Banking is through following **“gut instincts and immediate emotions ... driven by underlying attitudes and perceptions”** regarding financial data, data sharing in general, banks and technology (Accenture, 2016).

These beliefs inform how consumers approach evaluating the merit and value proposition of specific data sharing services or use cases. UK observations suggest that when considering services, “trust in who was providing the service [is] just as important in mitigating concerns as the value of the benefit on offer”. This insight is repeated by DSB’s Phase 3 CX research, which similarly found:

“Trustworthiness and the perceived benefit of the use case are connected.”

Consumer trust capital accrues through three main sources: other consumers (personal networks, online reviews, scale of other people’s participation); first-hand knowledge of the provider brand; and validation by other entities not delivering the front-end solution, such as banks, regulators and consumer bodies.

UK focus groups and local CX research participants both showed an expectation that, after deciding to engage with a service, user experience should be secure, fast, simple, and understandable, with **choice and control for the consumer** and decision making supported by confirmations and reassurance of actions. **Quality of individual outcomes powers positive reinforcement of data sharing.**

Sources: Accenture (2016) *Consumers’ initial reactions to the new services enabled by PSD2*; Data Standards Body (2020) *Consumer Experience Research CX Reports (Phase 3: Round 1 and 2; Phase 3: Round 3)*.

The value of trust

Trust has been explicitly identified as a crucial factor in consumer decision making for open banking services. Research conducted in 2016 by University College Dublin and Accenture Payments⁴⁸ found this held true for both payment initiation service providers and account information service providers; and was closely correlated with consumers' expressed need for robust data security as a crucial factor in sharing of personal financial data.

By taking a holistic view of consumer trust and benefits, with clear pathways for accountability and redress, CDR can evolve in ways that strengthen the economy while safeguarding consumers throughout the process.

The UK experience of open banking has indicated existing banks are perceived to be more trustworthy than new service providers; although it remains to be seen whether consumer sentiment in Australia differs from this in the wake of corporate behaviours uncovered by the 2019 *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*. If experiences do run parallel, fintechs and other non-bank entities seeking market share for CDR enabled services will need to convince consumers that they are secure and reliable, and that their user experience and benefits are equal or superior to those of others in the market.

Recent CX research by DSB, which sampled responses to simulated CDR data sharing prototypes⁴⁹ found participants did not present a single shared outlook on the relative trustworthiness of known and unfamiliar providers, although most participants did indicate that trust was inspired when they were given "options to choose" how their data was to be shared and handled⁵⁰. The findings hint at the complexity of consumer trust relationships and add weight to the notion that it is unwise to subscribe to the reliability of an 'average consumer' paradigm. Some research participants showed higher levels of trust in their existing Data Holder than in the (fictional) Accredited Data Recipient, but had low levels of trust in general: indicating little trust in their banking and energy provider, and even less trust in the Accredited Data Recipient. Other participants had similarly low levels of trust in their Data Holder but indicated a higher level of trust in the (fictional) Accredited Data Recipient. These responses speak to breadth in the underlying beliefs, attitudes, and perceptions informing consumer trust equations, however they cannot be read as evidence for levels of consumer trust in specific real world entities and associated value propositions, which might return different results.

Another key finding of DSB's CX research was that even where participants did not hold high levels of trust in their provider, the presence of that Data Holder in consent processes for data sharing made the process itself more trustworthy. Visibility of the known Data Holder as part of providing consent for data sharing processes functioned as a legitimising presence that helped consumers verify data sharing requests as valid, even where the Data Holder wasn't necessarily highly trusted by the consumer.

*It looked legit - it provided insights on data sharing, it connected to my bank.*⁵¹

⁴⁸ Accenture (2016) [Consumers' initial reactions to the new services enabled by PSD2](#).

⁴⁹ Data Standards Body (2020), CX Report: [Consumer Experience Research Phase 3: Round 3](#).

⁵⁰ Ibid, p22.

⁵¹ Ibid, p25. (Cited participant response to the question 'Which parts of the experience DID inspire trust?')

The importance to consumers of being able to identify familiar, authoritative credentials as a means of reassuring trust in data sharing process highlights how CDR can confer value as a visible presence in data sharing mechanisms. Public recognition of the CDR and the CDS as trust marks for data portability can play a part in growing public confidence in consumer data sharing – and help establish trust capital for accredited CDR participants. DSB’s CX data also confirms the likelihood of positive effects on consumer trust arising from the Data Standards’ role in providing transparent guidelines for industry behaviour. The significance of socialising consistent Data Standards – and CX principles – throughout the CDR ecosystem is implied in one participant’s response when asked ‘What changes to the experience could be made to increase your levels of trust?’:

If there is more awareness raised by CDR and by banks about data protection and benefits to consumers. And an industry guideline re. protection and use of data.⁵²

A core goal for CDR is to connect growth opportunities arising from the policy framework with context-specific and cross-sectoral knowledge of the issues most relevant to consumers who are seeking to use CDR enabled services; balancing opportunities and protections for those who stand to benefit from, or risk being disadvantaged by, its application. In this environment, robust accreditation and Data Standards – including standards relating to consumer experience – are vital to the success of CDR. Consumers require assurance that the parties to whom they provide data, and the mechanisms through which they do so, are accountable to consistent measures for security and fair dealing.

⁵² Ibid, p25. (Cited participant response to the question ‘What changes to the experience could be made to increase your levels of trust?’)

Section 3:

Are the CDR's CX Principles, Standards and Guidelines addressing consumer needs

As a gauge of how well the CDR is set up to meet consumer needs and expectations, the following pages turn to the key consumer issues identified in Section 2:

- *trust*
- *transparency*
- *comprehensibility and consent*
- *fairness and accountability*
- *privacy and security*
- *choice and control*
- *inclusion and accessibility.*

For each of these criteria we provide:

- a summary statement of what CDR success might look like for consumers
- a set of indicators suggested as benchmarks against which practical measures should be identified to help quantify the CDR's consumer outcomes
- a high-level review of where the CDR framework is addressing the issues
- representative analysis of gaps, and associated opportunities to strengthen consumer experience of CDR.



We suggest it would be beneficial to include clear indicators and measures for consumer outcomes against identified consumer issues within the performance evaluation framework of the CDR regime, and for these to be regularly reported on.

As noted in Section 2, the identified consumer issues are complementary to, and have broad overlap with, the United Nations' *Guidelines for Consumer Protection*⁵³. We highlight the UN's identification of the availability of effective consumer dispute resolution and redress as one of the core general principles for consumer protection. While this area is currently outside the scope of the Data Standards that must be made (as prescribed under Division 8.4 of the CDR Rules), developing consistent and inclusive standards for consumer dispute and redress processes as they apply to CDR requests and consent processes is a necessary part of strengthening consumer trust and safety in the scheme.



We suggest it would be beneficial to expand the remit of the Data Standards Chair to include the creation of relevant Data Standards relating to consumer dispute and redress within the CDR's transactional environment, to support a fair CDR and positive consumer outcomes.

⁵³ United Nations Conference on Trade and Development (2016) [United Nations Guidelines for Consumer Protections](#), UN: Geneva & New York.

CDR is an integral component in Australia’s evolving data economy. Protections for known issues such as misleading and deceptive conduct, consumer privacy, and data security are already in place (under the Australian Consumer Law and as part of CDR legislation), however the cross-sector and transnational reach of new technologies, products and services enabled by CDR as it comes online across the economy will render grey areas that are not yet tested by and/or protected in law.

Safeguarding consumers through changing market paradigms is more likely to be achieved if the CDR functions as part of an economy-wide approach towards privacy and data rights that equips consumers transacting in and across diverse markets to receive consistent consumer protections; an approach supported by findings of the Australian Competition and Consumer Commission (ACCC)⁵⁴.

Consumer knowledge, organisational transparency, and formal review channels are all necessary elements in building trust and capability for consumer engagement in CDR-enabled data sharing. As well, consumer awareness is integral for protecting consumer rights (including the right to contest actions/decisions) in markets and upholding human rights to privacy and fair treatment. The importance of how government communicates CDR to consumers cannot be underestimated. A key lesson from consumer research, borne out by other data reforms, is that education and outreach need to be inclusive. Providing consumers with information about CDR is not enough: it must be relevant, understandable, accessible, and engaging.



We recommend that development of consumer awareness, education and outreach programs and assets for the CDR must diversify beyond concepts of an ‘average consumer’ and adhere to the CX Principles in seeking to support the variety and variability of consumer experiences (for example, through CX research, inclusive design, and consumer-informed evaluation).



We also recommend that, in addition to providing information about CDR itself, consumer outreach programs should look to promote safe, data conscious behaviour in the networked economy more broadly; as a means of achieving positive consumer outcomes, growing consumer confidence in CDR, and increasing consumer investment in the value of their data.

CDR – CX Principles⁵⁵

Figure 3 (facing page) provides a full text reproduction of the CX Principles forming part of the Consumer Data Standards for the CDR, as referenced throughout the remainder of this section.

⁵⁴ Australian Competition and Consumer Commission (2019) [Digital Platforms Inquiry Final Report](#), p452

⁵⁵ Data Standards Body (2020), *Consumer Data Standards*, v1.3.1.

Fig. 3.

CX Principle 1

The CDR is Consumer-centric

The CDR consumer experience is intuitive and is centred on consumer attitudes, needs, behaviours, and expectations – noting that these may change over time.

CX Principle 2

The CDR is Accessible and Inclusive

A diverse range of people are able to access, use, and comprehend the CDR ecosystem regardless of their background, situation, experience, or personal characteristics.

CX Principle 3

The CDR consumer experience is Comprehensible

When interacting with the CDR, consumers are able to understand the following:

- who their data is shared with;
- what information is shared;
- when sharing begins and ceases;
- where data is shared to and from;
- why their data is being requested;
- how they can manage and control the sharing and use of their data.

CX Principle 4

The CDR consumer experience is Simple and Empowering

Consumer interactions with the CDR are as simple as possible, but not at the expense of informed consent, consumer control, transparency, privacy, or comprehension.

Consumers should be encouraged to be privacy conscious without experiencing cognitive loads that lead to disengagement. Consumers should also be empowered by the CDR without interactive burdens being placed on them.

CX Principle 5

Consumer Consent is Current

Consent is granted at a point in time and is only as current as the consumer's original intent. Consumer attitudes and behaviours may change over time and be impacted by external events such as the expansion of the CDR or consumer awareness. Consent terms should always align to current consumer preferences.

3.1 Trust

What would success look like for consumers?

Consumer trust is not abused: exchange of consumer data and financial assets occurs in ways that are safe, effectively protected by law, and of benefit to the consumer.

Indicators:

- Consumers are confident that their vulnerabilities will not be exploited
- Consumers are confident that their data is handled safely and will not be misused
- Consumers receive the outcomes or benefits promised by products and services
- Consumers receive clear, timely and fair resolution to complaints and disputes

How are the CDR Rules and Consumer Data Standards working to achieve this?

- **CDR Rules**
 - CDR logo may only be displayed by accredited CDR participants and for conformant implementations.
- **Data Standards**
 - CX Principles 1-5 taken together work to promote consumer trust, although it is not explicitly stated in any of the Principles.
 - CX Standards 9-13 (part of the Consent, Authenticate and Authorise Standards) contribute to trustworthiness through consistent requirements for clear, direct consumer communication of safe practices relating to data security within the Consent Model.

Where are the gaps and opportunities?

- Consumer awareness – CDR is not on the consumer radar. With increased budget allocation towards this goal announced in July 2020⁵⁶, there is opportunity for responsible agencies – under this allocation, ACCC and the Treasury – to ensure that programs and assets produced to inform and educate consumers about CDR are relevant and responsive to diverse real world consumer circumstances, behaviours, and experiences.
- Staged roll-out of CDR may complement staged outreach and communication to a) grow baseline data capabilities of CDR consumers alongside the ecosystem and b) manage consumer expectations as CDR continues to mature across sectors.
- Opportunity to explore the benefits of collaboration on, or endorsement of, an independently produced consumer data sharing manifesto/statement (along the lines of the UK example provided at Appendix 1). A commitment of this kind would foster public trust by clearly and simply aligning CDR with a duty of care to consumers in data sharing transactions.
- Continue drawing on expert knowledge of consumer/community groups to identify existing and emerging vulnerability considerations likely to affect CDR use and outcomes, or otherwise influence trust and comprehension of CDR.

⁵⁶ Commonwealth of Australia (2020) [Economic and Fiscal Update 2020](#) (Appendix A), p170.

3.2 Transparency

What would success look like for consumers?

Consumer data sharing is based on reliable, readily available information, with visibility over consents and chains of accountability.

Indicators:

- Consumers have clarity about who they are sharing their data with, and the specific data that is being shared
- Consumers have clarity about what will be done with their data, and any risks associated with the data sharing
- Consumers are informed of outcomes they can expect from the data sharing
- Consumers are aware of how data recipients stand to benefit from the transaction
- Consumers have continuing visibility over the data sharing consents they provide
- Consumers have visibility over the status of complaints and disputes

How are the CDR Rules and Consumer Data Standards working to achieve this?

- **CDR Rules:**
 - Rule 1.8 (Data Minimisation Principle): accredited persons may only seek to collect such CDR data as is reasonably required to provide the relevant goods or services to a consumer, relates to no longer a time period than is reasonably required. They also may not use the CDR data, or CDR data derived from it, beyond what is needed to provide the goods or services requested by the consumer. This rule offers consumer protection against exploitation of CDR to build data profiles or otherwise profit from consumers' CDR data without their knowledge or consent.
 - Set general obligations for accredited persons (data holders and recipients) to provide CDR consumers with consumer dashboards, which must provide visibility of information relating to consumer data requests, and a functionality for withdrawing consents and authorisations.
- **Data Standards:**
 - Demonstrate commitment to transparency in development process – open forums for stakeholder comment are publicly visible (and open to comment) on GitHub; and minutes of Advisory Committee meetings are published on the Consumer Data Standards website.
 - Support continuing visibility over data sharing by providing guidance and illustrative wireframes for consumer dashboards (documented in CX Guidelines).
 - Transparency is directly noted in CX Principle 4.
 - The Data Language Standards (CX Standards 1 and 2) provide clarity to consumers – and others in the CDR ecosystem – regarding what data is being shared. This clarity is assisted by the Standards mandating consistent terminology across different CDR implementations/sectors, and by Standard 2 requiring full information to be presented to the consumer where basic scope data is included in a detailed data cluster.

Where are the gaps and opportunities?

- The Data Language Standards apply to consumer data only; they could be extended to provide consistent language for sharing attributes of data holders, data recipients and others in the ecosystem (for example, to apply for representation of consents in CDR Consent Dashboards).
- Similarly, there is an opportunity to expand the Data Language Standards to provide clarity and consistency in areas beyond consumer data clusters – for example, through developing a consent taxonomy to facilitate consistent parameters and shared expectations in relation to language used in obtaining consent. This would also be beneficial for achieving consistency across Consent Dashboards, and for the determination of breaches of consent rules and standards, particularly as cross sector data sharing becomes the norm.
- Consumer dashboards allow for consumers to monitor data consents at a provider level, but currently there is no mechanism for consumers to monitor consents overall (impractical across multiple dashboards, compounded by high likelihood of design inconsistency across provider interfaces).
- Opportunity for providing a unified CDR consent dashboard that would allow consumers to monitor all their consents from one place.
- Most consumers are unlikely to follow lengthy administrative process to request visibility of compliance information and a public perception of information being 'hidden' leads to decrease in trust. Opportunity to explore how Data Standards might address public reporting of compliance metrics [ref. Rules 8.11(1)(f)ii] –at present the Data Standards include requirements in relation to logging and reporting functional performance failures, but not in relation to unauthorised or refused requests. For example, prior to non-functional reporting requirements within CDS becoming binding, investigate if it is viable to include Data Holder reporting requirement for numbers of requests refused, including where invalid due to authorisation failures relating to identity and consent.
- Testing efficacy of transparency measures associated with data standards will be reliant on seeing actual product/service implementations (not yet part of the active CDR ecosystem): levels of industry conformance with CX Principles and Guidelines is currently an unknown. Prescriptive standards and metrics may be suitable for some measures (and could feed into CDR transparency through annual publication on CDR website of statistical summary from regulatory reporting), whereas other performance aspects will be better suited to measures that allow room for varying implementations that demonstrate alignment with principles.

3.3 Comprehensibility and consent

What would success look like for consumers?

Accurate and meaningful understanding of data sharing actions and outcomes, with protection to provide consent freely and expressly.

Indicators:

- Consumers are presented with all terms and conditions they will be consenting to, in formats meaningful to them
- Consumers have sufficient levels of data fluency to distinguish short- and long-term consequences of data sharing
- Consumers have capability and opportunity to assess risk and benefit before providing consent for data sharing
- Consumers have protection against being coerced or enticed into data sharing against their interests
- Consumer consent is given for a prescribed time and purpose
- Consumers can renew data sharing consents easily, or revoke them without penalty
- Processes for CDR data sharing provide clear confirmation of actions and consents
- Processes for CDR data sharing support conditional and granular consents
- Processes for CDR data sharing can be explained in human-understandable terms

How are the CDR Rules and Consumer Data Standards working to achieve this?

- **CDR Rules (Part 4) require:**
 - Consumers must be asked to provide their consent whenever an accredited person seeks to collect and use their CDR data to provide goods or services
 - Data Holders must hold or obtain authorisation from a consumer before disclosing data to an accredited person making the request
 - Subdivision 4.3.1 calls for consent to be: voluntary; express; informed; specific as to purpose; time limited; and easily withdrawn
 - Subdivision 4.3.2 sets out more specific requirements for consent, including active choice (ie, not an 'opt out' of preselected or default settings), comprehensibility and regard to consumer experience.
- **Data Standards:**
 - Relevant Data Standards deal with communicating consent between data holders and data recipients: Security profile (Consent; Scope and Claims); and Authorisation Scopes. Consent requirements "will be communicated between the Data Recipient and Data Holder via the authorisation request object. The primary mechanism for capturing consent will be scopes and claims".
 - Support Part 4 of the CDR Rules (on consent) by illustrating requirements and wireframes for compliant, consumer-oriented consent flows and consent management; documented in the CX Guidelines.
 - CX Principles 2 and 3 both reference comprehensibility; Principle 3 being that the *CDR consumer experience is comprehensible*. Principles 4 and 5 both reference consent, with Principle 5 being that *Consumer consent is current*.

- CX Standard 1, which requires standard language to describe consumer data elements be used with consistent interpretation across different CDR implementations, should aid consumer comprehensibility by limiting inconsistent use of terminology to describe data being requested/shared.
- CX Standards 8-14 (relating to 'Consent, authorise and authenticate' processes) are largely to do with consumer comprehension of a) security (authentication) and b) which accredited person and process they are dealing with at any point in time (Data Recipient or Data Holder / request consent or authorisation).
- CX Standard 14 safeguards consumers' right to specify which accounts they wish to share data from (where multiple accounts are available for data sharing in relation to a consent).
- CX Standards 16-18 provide for withdrawal of consent: alerting consumers to review consequences of withdrawal before they stop sharing data, and informing them of the handling of redundant data as part of the withdrawal process (including right to delete where deletion is not the default policy).
- The CX Guidelines provide extensive guidelines in relation to mandatory obligations and optional requirements for CDR participants seeking to implement the CDR Consent Model. They offer high level guidance on the role of consent in CDR (interpreting the requirements of CDR Rules subdivision 4.3.2 as a series of MUST statements relevant to UI/UX design); emphasise comprehension as fundamental to consent; and supply wireframes that represent how the CDR consent model might be implemented.

Where are the gaps and opportunities?

- Low consumer understanding of data sharing ecosystem, consent flows, and data use (including, eg - outsourcing, intermediaries, material enhancement and profiling). This may lead consumers to dismiss CDR as "too complicated". Consumer disconnect between process and outcomes suggests need/opportunity to build comprehension of why CDR is better/safer for individual outcomes and for 'social' good than other models (eg, screen scraping) – especially when both of these might on face value provide similar short term gain for a consumer – what are the motivators to change behaviour?
- As well as informing about CDR itself, consumer awareness campaigns should contribute to growing baseline data comprehension and digital inclusion to support consumer understanding and use of CDR. Opportunities exist to engage community sector in capability building, and as agents for outreach and collaboration on relevant product/service offerings to achieve policy goals; including input to develop measures for evaluating success of Consumer Data Standards and CDR frameworks.
- Consent is compromised if all parts of the consent process are not comprehensible (eg, if consumers initiate data portability via CDR but do not understand the consents they are making). There is a gap in Data Standards being able to address this insofar as their role is to strengthen systems-level and Provider-side standards – CX is therefore channeled to this purpose and does not play a direct role in Consumer-side guidance. Opportunity for CDRs regulatory bodies to 'cross pollinate' CDR resources – eg for the Standards' CX Principles to be considered for adoption across CDR ecosystem more widely, beyond the transfer of CDR datasets.

3.4 Fairness and accountability

What would success look like for consumers?

Equal opportunities to participate in CDR markets, delivery of fair data-driven products and services and effective redress for unlawful or harmful treatment.

Indicators:

- Benefits of CDR are widely distributed and available to all consumers
- Consumer benefits of CDR manifest in both individual and societal outcomes
- CDR enabled innovation leads to increase in data-for-good projects and services
- No increase in exclusion or disadvantage for consumers associated with high-risk credit products or discriminatory pricing
- Consumers have simple and timely redress processes if things go wrong
- Consumers can correct inaccurate data and have means for redress if they are unfairly impacted through errors or inaccuracies in data shared through CDR
- Summary information relating to CDR complaints/resolutions and reporting is readily available to the public
- CDR processes and technologies have human points of accountability

How are the CDR Rules and Consumer Data Standards working to achieve this?

- **CDR Rules:**
 - Set out requirements of accredited persons for CDR reporting, audit, and recordkeeping; and make provision for dispute resolution and civil penalties.
 - Rules and Data Standards work together towards having no single point of failure in accountability: checks and balances outside the technical systems for data sharing (regulatory, accreditation) and within the parameters of technical systems (authentication, authorisation).
- **Data Standards:**
 - CX Principle 2 (Inclusion and Accessibility) promotes a fair and inclusive CDR. CX Principles 1, 4, and 5 emphasise that consumers should be able to manage their choices relevant to point in time, and in recognition that these can change over time (including as a result of external circumstances and/or circumstances outside consumer control) – this is significant for creating a CDR that is fair to consumers.
 - CX Standards and Guidelines hold accredited persons accountable during the consumer experience of the Consent Model, but do not include standards in relation to consumer experience of processes for accountability in the event something goes wrong. CX guidance for processes relating to consumer information requests, complaints, or requests for correction of inaccurate CDR data may be helpful. There may be a future opportunity to extend the CX standards to cover these matters; however, they are not currently within the scope of Data Standards that must be made under the Rules (Section 8.11).

Where are the gaps and opportunities?

- Businesses seeking to use CDR do not start from a level playing field ... opportunity for Data Standards Body to work on developing standardised use cases and open source design assets.
- Consumers seeking to use CDR do not start from a level playing field ... opportunity for Data Standards Body to collaborate with community sector and data sector on consumer-informed needs cases and co-design of open source assets supporting data for good offerings.
- Opportunity within implementation of CDR Rules to ensure visibility of regulatory metrics, including public release of CDR compliance data.
- Opportunity to strengthen non-functional requirement for 'Data Quality' in the Data Standards to place a concurrent obligation on Data Recipients. This would protect consumers' right to expect reasonable steps are taken to ascertain that data being treated as current (and which is relied upon as such to inform decisions of material impact to them) remains current and accurate).
- Opportunity to explore whether further non-functional reporting requirements might improve equitable consumer outcomes as a result of CDR, for example reporting around specific use cases (budget tools, comparison and switching practices) as part of toolboxes for understanding consumer uptake, experience, and quality of longer-term outcomes.
- Potential for future expansion of Rules (Div 8.4) so that Data Standards relating to disputes/redress are included within the remit of the Data Standards Chair.
- In relation to accountability more broadly, we note the consistent recommendations from consumer organisations and the ACCC for the implementation of an unfair trading prohibition to be introduced into the Australian Consumer Law. As digital markets, products and services increase in complexity the need for lasting principles of both fairness and safety to be embedded within consumer law are of the utmost importance. The implementation of such reforms alongside the CDR regime would strengthen the framework and improve outcomes for consumers.

3.5 Privacy and security

What would success look like for consumers?

Consumers have safe means of sharing their consumer data.

Indicators:

- Data shared through CDR is not disclosed for purposes other than that for which valid consent is granted
- CDR data held by Data Recipients, or their intermediaries, is deleted by default when consent is no longer current (ie, upon expiry, withdrawal, or other revocation of the associated CDR consent)
- CDR processes and technologies for sharing data, including authorisation of identity, adhere to information transfer standards and information security protocol that are consistent, robust, and effective
- CDR data holders and recipients are subject to accreditation, reporting, and audit requirements
- Joint account holders do not suffer loss of protections or privacy under CDR
- Consumers have mechanisms to allow them to review consents, including provision of information about who has visibility over data consents and over the CDR data disclosed under those consents

How are the CDR Rules and Consumer Data Standards working to achieve this?

- CDR is intended to provide a safer data sharing environment for consumers by providing an alternative to unsafe practices such as screen scraping (which involves consumer disclosure of their personal account passwords to third parties). Stakeholders have noted that data shared direct-to-consumer will not be subject to protection once outside the CDR ecosystem. Direct to consumer data sharing obligations are currently deferred until November 2021 to allow more consultation on how to balance the consumer right to direct access with safety.
- **CDR Rules:**
 - Explanatory Statement to the Rules (1.11): “The rules invoke the right to protection from unlawful or arbitrary interference with privacy under Article 17 of the International Covenant on Civil and Political Rights (the ICCPR) because they enable consumers to authorise data sharing and use in a regulated manner that is subject to Privacy Safeguards.
 - Privacy and Security requirements for CDR data sharing are detailed under Rules Part 7 (Privacy) and Schedule 1, Part 2 (Information Security Controls).
 - Although ‘deletion by default’ when consent is no longer current is not supported in the current iteration of the Rules, they do provide a ‘right to delete’ – CDR processes must provide consumers with the opportunity to elect deletion (rather than de-identification) apply to expired CDR data. We would advise future iterations of the Rules to consider requiring ‘deletion by default’ as best practice for consumer privacy and security.
- **Data Standards:**
 - Security Profile
 - Authorisation Scopes

- CX Principle 4 references privacy. The consumer experience of safety and data security is not explicitly stated in the CX Principles.
- CX Guidelines aim to ensure security and privacy risks and decisions within CDR interfaces are clear to consumers.
- CX Standards 9 -18 target requirements for consumer awareness as an integral part of data security and consumer privacy throughout processes in the CDR Consent Model. This includes comprehension of authentication being through one time password (and clearly stating that consumer account passwords are not part of or needed for data sharing under CDR); as well as account selection (for data sharing), and deletion or deidentification of redundant data.
- CX Standard 14 makes some specifications in relation to account selection where CDR processes apply to joint accounts; further CX standards in relation to the treatment of joint accounts in the CDR Consent Model are the subject of recent and ongoing consultation with both industry and consumer stakeholders. Data security is known to be a key issue for all consumers; and DSB's CX testing validates that maintaining privacy is expressed as a particularly high concern by vulnerable consumers.

Where are the gaps and opportunities?

- Subject to the Rules, Accredited Data recipients are permitted to deidentify and retain consent-expired consumer data – and if doing so must make a record of their assessment of compliance [Rules, 1.17(3)(d)]. However, de-identification is not specified as part of reporting and recordkeeping obligations [Rules Div.9.3]. This gap may inadvertently encourage less stringent compliance and heightened risk of data being reidentified and misused if there is data leakage or data theft.
- Opportunity to explore how Data Standards might be used to support the requirement for records and reporting of data deidentification processes (Section 9.3 of the Rules).
- Opportunity to for future iteration of the Rules to strengthen consumer privacy protection by requiring deletion of expired data by default.
- Disclosure through data sharing of certain types of third-party financial data (eg, name and account data as part of payee details) is allowable under the Rules without requiring the knowledge or consent of that third party. We suggest this is another factor in support of introducing a requirement that CDR data should be deleted by default when consent is no longer current.
- Direct-to-consumer data is not subject to protection once outside the CDR ecosystem and, recognising associated risks, has been placed out of scope for initial implementation. This gap should be clearly acknowledged to avoid confusion on the part of consumers who might reasonably expect CDR to provide a direct right of access to their data.
- Different stakeholders in the same dataset may have different consents, and the obligations of consumers, Data Holders, and Accredited Data Recipients in relation to handling consents that include joint accounts data are not clearly detailed. We advise further community and industry consultation on issues relating to joint accounts, with a view to determining whether (or where) these might need to be addressed by future iterations of the Rules or Standards.
- Ongoing exploration of use cases around privacy and safety for consumers. This is especially important where consumer risks and vulnerabilities intersect with meaningful consent (eg, family/economic abuse and joint accounts).

3.6 Choice and control

What would success look like for consumers?

Consumers are empowered to use their data to demonstrable benefit according to their own interests and abilities

Indicators:

- Increased consumer engagement with data driven products and services
- Consumers recognise and harness value of their data inputs into data supply chains
- Consumers envisage downstream effects of data sharing as well as short term gains
- Consumer-informed product development
- Processes for CDR data sharing enable consumers to easily implement their preferred choices and consents
- Consumers do not forfeit control of CDR data held by Data Recipients, or their intermediaries when consent ceases to be current, whether that be due to the scheduled expiry of consent or unexpectedly (for example, if CDR accreditation is revoked)
- Consumers are not penalised for change of circumstance, change of understanding, or change of mind; and are able to exercise control over their data and modify data sharing choices relevant to point in time.

How are the CDR Rules and Consumer Data Standards working to achieve this?

- Under Section 56AA of the CDR Act, the object of the CDR is” to create more choice and competition, or to otherwise promote the public interest”.
- **CDR Rules:**
 - Subsection 4.12(1) prescribes a maximum timeframe of not more than 12 months for accredited parties to specify as the period of collection and use when seeking consumer consent for CDR data. This provides consumer protecting against losing control over their data when service use becomes redundant (or in circumstances where a consumer is unable to keep track of and manage active consents).
 - The concept of “choice” is not explicitly covered in the Rules.
- **Data Standards:**
 - Standards enable concurrent consents, allowing consumers to elect sharing multiple datasets between the same Data Holder and Accredited Data Recipient that may include different CDR data, for different purposes.
 - CX Principle 4 *CDR consumer experience is simple and empowering* reflects this measure of success, as do CX Principles 1 and 2 (*The CDR is consumer centric* and *The CDR is inclusive and accessible*)
 - CX Standard 14 enables and protects the consumer’s right to exercise choice and control over the accounts from which they consent to share data under an accredited person’s CDR request/authorisation.
 - CX Standards 16 and 18 enable and protect the consumer’s right to exercise choice and control over how their data is treated once it becomes redundant, specific to circumstances where consumers are withdrawing CDR consent.
 - CX Guidelines provide broad guidance on the concept of “Control” (p30).

Where are the gaps and opportunities?

- Opportunity may exist to expand the CX standards to similarly state the consumer's rights to exercise choice and control over handling of redundant data in relation to any circumstances where consent is longer current (including the scheduled expiry of consent, or the revocation of consent where, for example, a Data Recipient loses or surrenders their accreditation). Obligations in relation to handling redundant data are currently included as part of the CX Guidelines (pp 61-63).
- Opportunity for future iteration of the Rules to strengthen consumer control by requiring deletion of expired data by default. This would increase protection of choice and control over data in the event that a consumer who wishes to modify a CDR consent to elect deletion is unable to navigate the process for doing so, or is incapacitated or otherwise prevented from making the change prior to expiry of the consent authorisation.

3.7 Inclusion and accessibility

What would success look like for consumers?

Access to better products and services for everyone.

Indicators:

- Market choices available to suit consumers across the full spectrum of society
- Availability of products and services that responsively support consumers through changing circumstances
- Availability of products and services that responsively support consumers who experience vulnerabilities
- Service offerings are simple to access and easy to understand
- User interfaces and consumer consent processes for CDR data sharing are clear, easy to use, and conform to international benchmarks for online accessibility, such as WCAG (Web Content Accessibility Guidelines).
- Consumer education and outreach in relation to CDR addresses varying levels of digital inclusion and data literacy
- Consumer uptake of market offerings that bring demonstrable value to their lives

How are the CDR Rules and Consumer Data Standards working to achieve this?

- **CDR Rules:**
 - Require CDR processes for consent and authorisation to have regard to any consumer experience guidelines developed by the Data Standards Body (subsections 4.10 and 4.22).
- **Data Standards:**
 - Ongoing CX research throughout the development of Data Standards; aspiring to inclusive design and representative consumer consultation (and remaining aware/alert of gaps in representation).
 - Have incorporated strengthened CX Principles following 2020 review.

- CX Principle 2: *The CDR is Inclusive and Accessible.*
- The Accessibility Standards (CX Standards 3 through 8) align the CDR Consent Model with a subset of the global standards for Web Content Accessibility Guidelines (WCAG). These Accessibility Standards do not require compliance to WCAG - rather the directive is to make meaningful effort to comply (“MUST seek to comply”); nor do they extend to elements of CDR outside the Consent Model.

Where are the gaps and opportunities?

- An opportunity exists to extend the Accessibility standards to cover all parts of the consumer interface (ie, to apply to elements other than the Consent Model).
- The Accessibility Standards are largely (not exclusively) addressing physical accessibility measures and may not sufficiently address other accessibility needs. For example, recent OECD data suggests more than 20 per cent of Australian adults have very low literacy, numeracy, and digital problem-solving skills⁵⁷. Opportunities may exist to augment the CX standards to further address cognitive, learning, and neurological differences; and to support CDR being more accessible for those with low digital literacy and/or high digital exclusion.

In closing this section, we note, as identified earlier in the report (page 13), that a key threat for inclusion and accessibility in the CDR ecosystem is the risk of creating two tiered markets across the board. We emphasise that, without deliberate approaches or incentives to create inclusive access, consumers who are battling digital exclusion (often in combination with other vulnerabilities) may be excluded from obtaining benefits of CDR, while those who are digitally skilled and digitally connected have better access to new consumer products and services that might improve wellbeing but remain out of reach for consumers with less access to digital markets.



We recommend that measurement of indicators to gauge the impact of CDR’s accessibility and inclusion standards should include monitoring price spread shifts for online and offline customer segments in CDR market sectors.



We also suggest that deletion of CDR data as the default action when consumer consent is longer current would strengthen consumer control and protection over leakage or misuse of their data, and we recommend that future iterations of the CDR Rules consider implementing this as a CDR requirement.

⁵⁷ <https://www.smh.com.au/education/one-fifth-of-australian-adults-have-limited-literacy-and-numeracy-oecd-20190214-p50xpo.html> (accessed 31 July 2020).

Section 4:

Testing CDR policy goals against consumer feedback and existing research

CDR is an ambitious legislative and policy reform. It is conceived differently to a general data protection regime, but also reaches far beyond the scope of open banking. On its launch to the public in July 2020, it has introduced open banking to the Australian context; and, when fully implemented, CDR will provide unique benefits in facilitating safe consumer data sharing across sectors and, potentially, between government and non-government services.

It is not only the quality of offerings and competition it initiates, but also the extent to which CDR is an enabler for consumer comprehension, experience and trust of data sharing that will prove the measures of its success.

This section provides a snapshot of relevant insights into open banking and data reforms, mapped to policy goals stated in Treasury's implementation principles for the CDR.

The findings are intended as representative rather than comprehensive, and draw from local and international sources, including CDR consultations undertaken by the Treasury and the Australian Competition and Consumer Commission (ACCC) and the DSB's own consumer (CX) research as part of Data Standards development.

Overall, CDR is tracking well against its policy goals, although much will rest on how well the implementation and future directions of CDR enable an inclusive and meaningful range of consumer choices in practice.

Consumers with relatively high levels of financial and data literacy are assumed to be a high (but not exclusive) proportion of the first adopters of CDR enabled open banking products and services⁵⁸, and will enjoy the early fruits of competition; however, long term success of the reform depends on the degree to which CDR can facilitate benefits across the wider Australian community and economy.

Specific CDR policy goals⁵⁹ we have sought evidence for are:

- Consumer focused
- Encourages competition
- Better consumer choices
- New business opportunities
- Innovation in data sector
- Personalised services that better meet consumer needs
- Economic efficiency
- Fairness

⁵⁸ Data Standards Body (2019), [Consumer Data Standards – CX Report: Phase 2, Stream 1](#).

⁵⁹ As described in Treasury's implementation principles for CDR, reproduced as Fig. 1 of this report (page 4).

CDR policy goals	DSB's CX research findings	Australian insights and CDR consultations	International insights
Consumer focused	<p>Consumers want control over the data sharing process and found too much automation invasive. Automation should not be the only option (Phase 2, Stream 1 CX report, p3)</p> <p>Consumers facing vulnerability had greater concerns about possible harm arising from misuse of their data and were particularly concerned that their data would continue to exist in the system after revoking consent (Phase2 Stream 1 CX report, p3-4)</p> <p>9 out of 10 participants thought a CX prototype of a potential CDR process was better than current data sharing methods (Phase 3 Round 3 CX report, p18)</p>	<p>Perceptions exist that consumer interests may be lagging business and economic interests in shaping CDR and that the 'Consumer Data Right' may not provide consumers with sufficient rights over their data.⁶⁰</p> <p>Social good opportunity incl.:</p> <ul style="list-style-type: none"> - improved access to financial services and advice for consumers - better products available to community services to support clients (finance and energy, but also telco, housing, and other areas) - better data linking between sectors and services can help safeguard people who are vulnerable or on the margins 	<p>UK consumers stand to make gains of between 0.8% and 2.5% of their income from availability of open banking initiatives.⁶¹</p> <p>Most financial benefit likely to be realised by the 'overstretched' demographic; least financial benefit by 'on the margins'; with 'aspiring' and 'asset rich' demographics placed in between⁶².</p> <p>Opportunity flows to social as well as financial benefit: value of better long-term decision making includes reduced incidence of stress and mental health crises caused by money worries⁶³.</p>
Encourages competition	<p>Overcoming barriers to consumer adoption of CDR enabled services will depend on business being able to compete on providing consumer trust and clear, well-articulated value propositions (Phase 1 CX Report, p4)</p> <p>Consumers express a desire to be able to exercise choice of data shared and duration of sharing; purpose of the service contributes to these choices (Phase 2 Stream 3 CX report, p3) – data choices can be competitive point of difference.</p>	<p>To encourage new entrants into CDR system, pragmatic approach to regulatory enforcement in place for transitional stage: priority focus on consumer harms and on matters risking reputational; or long-term success of CDR.</p> <p>Robustness and transparency in compliance and enforcement measures remains critical. Consumer Action Law Centre notes the Australian Productivity Commission's warning that "allowing market misconduct to occur without redress can be anti-competitive in that it gives legally non-compliant traders an advantage over those that do comply".⁶⁴</p>	<p>Business should compete on the issues that matter to consumers, including the provision of clear and useable controls that enable consumers to manage data-sharing.⁶⁵</p> <p>Large incumbents are better resourced to meet technical compliance – there is a risk they may dominate the ecosystem, nullify its impact on competition, and increase barriers to switching.⁶⁶</p>

⁶⁰ See, for example, *Submission by the Financial Rights Legal Centre submission [to] Treasury CDR Privacy Impact Assessment, December 2018.*

⁶¹ Reynolds, Chidley, et.al. (2019) [Consumer Priorities for Open Banking](#), p5.

⁶² Ibid, p5.

⁶³ Ibid, p27.

⁶⁴ Brody, G. and Temple, K. (2016) ['Unfair but not Illegal: Are Australia's consumer protection laws allowing predatory businesses to flourish?'](#) *Alternative Law Journal* Vol 41(3), pp 161-165.

⁶⁵ Competition and Markets Authority (2015) [The commercial use of consumer data: Report on the CMA's call for information](#), p8.

⁶⁶ Reynolds, Chidley, et.al. (2019).

CDR policy goals	DSB's CX research findings	Australian insights and CDR consultations	International insights
Better consumer choices	Comprehension of choice: The majority of respondents to Phase 1 CX survey were unsure where they might expect to find a list of all the organisations they had shared their data with, however, less than 10% believed there would not be a centralised place for managing this (Phase 1 CX report, p103)	Importance of financial literacy and data literacy – and, more broadly, financial and data consciousness – in addressing behavioural biases that can constrain consumers' comprehensions and decision making and their capability to engage in the digital economy confidently and safely. ⁶⁷	Number and quality of offerings takes time to evolve under new data sharing regimes ⁶⁸ .
New business opportunities	CDR can be used as a catalyst for digital transformation in sectors where this is not yet widespread, such as energy. (Phase 3 Rounds 1 & 2 CX report, p17) Low public confidence in the Government's ability to handle digital data (ibid, p18) creates opportunity for third party providers to bridge gaps in cross-sector service delivery.	Consumer demand: According to Deloitte's 2019 open banking survey, 63% of Australian consumers say they are looking for a new provider for at least some of their banking products, and 20% say they intend to make a switch within 12 months ⁶⁹ .	In the UK, 2 years after introduction of open banking 80% of the value for people and 60% for small businesses was assessed as being in propositions for which there were three or less firms registered per proposition. ⁷⁰
Innovation in data sector	Authentication, consent management, and CDR comms can be used as intervention points to catalyse digital adoption in new markets. (Phase 3 Rounds 1 & 2 CX report, p17)	CDR should be expanded to data protection rights alongside data sharing infrastructure, to create conditions for a richer range of services and products. "Against this background data regulation will have a transformative impact on the shape and structure of industries. Above all else firms will need to recognise that from now on putting customers fully in control of their 'data lives' will be both a commercial and regulatory imperative". ⁷¹	Opportunity to address social disadvantage and consumer vulnerabilities, with support from government incentives ⁷² . Growing RegTech (regulatory technology) sector to manage compliance in wake of data reforms including GDPR in Europe and privacy reforms in the US ⁷³ .
Personalised services that better meet consumer needs	Consumers want companies to provide clear links between how data requested shapes the service offering. Extent of data sharing was questioned regularly, "why do they need to know so much about me?" (Phase 2 Stream 2 CX report p17)	Economy wide data sharing framework opens opportunity for cross sector models unique to Australian CDR – when realised, consumers can benefit from mapping data/services across sectors to work with holistic rather than segmented picture of consumer need. Must safeguard vulnerable or marginalised consumers from being left behind / further exclusion.	Consumers on the margins less likely to have accrued data assets (including banking accounts) ⁷⁴ and so hold less associated data on which to base personalised offerings.

⁶⁷ Deloitte (2020) *Shaping the Future Consumer Data Right: Deloitte Submission to the Inquiry into Future Directions for the Consumer Data Right*.

⁶⁸ 'Open Banking adoption surpasses one million customer mark' [OBIE news release, 20 January 2020] <https://www.openbanking.org.uk/about-us/latest-news/open-banking-adoption-surpasses-one-million-customer-mark/> Page accessed 31 July, 2020.

⁶⁹ Deloitte (2019) *Open Banking: Switch or Stick? Insights into consumer switching behaviour and trust*; and Key findings from the 2019 open banking survey [infographic].

⁷⁰ Reynolds, Chidley, et.al. (2019) *Consumer Priorities for Open Banking*.

⁷¹ Deloitte (2020) *Shaping the Future Consumer Data Right: Deloitte Submission to the Inquiry into Future Directions for the Consumer Data Right*, p14.

⁷² HM Government UK (2019) *Smart Data: Putting consumers in control of their data and enabling innovation*

⁷³ Cambridge Centre for Alternative Finance (2019) *The Global RegTech Industry Benchmark Report*.

⁷⁴ Reynolds, Chidley, et.al. (2019), pp 17-18.

CDR policy goals	DSB's CX research findings	Australian insights and CDR consultations	International insights
Economic efficiency	Staged implementation of CDR provides unique opportunity to develop efficiencies based on actual use cases and experiences (Phase 1 CX report)	Concerns from small business, fintech, and start-ups that cost of accreditation and compliance makes CDR untenable for their use.	Greater efficiencies for organisations as 'consistency by design' leads to better integrated data systems (with flow to better consumer outcomes) ⁷⁵ .
Fairness	Despite creation of CX guidelines, providers will choose their own different interface solutions. Usability of these models will vary (Phase 1 CX report, p107).	Businesses seeking to become accredited CDR Data Recipients do not start from a level playing field financially or technically. Developing standardised use cases and open source design assets may help smaller entities enter the CDR ecosystem and promote market diversity, fairness, and compliance.	Existing brands more trusted by consumers and have an advantage in the market. However, brand recognition as a trust motivator also extends to data reforms - research by Ipsos MORI for OBIE shows that a Trustmark could have a positive effect on people's attitudes towards new providers and encourage take up ⁷⁶ ; and research by automotive data services platform Otonomo suggests visible GDPR compliance assists in building consumer trust ⁷⁷ .

⁷⁵ Reynolds, Chidley, et. al. (2019), [Consumer Priorities for Open Banking](#), p51.

⁷⁶ Cited in Reynolds and Chidley (2019), p48.

⁷⁷ Otonomo (2020) *What European consumers think about connected car data and privacy*.

Section 5:

Concluding remarks and recommendations

The CX Standards and Guidelines offer a strong foundation for positive consumer experience of CDR data sharing, however they are only part of the story.

The true efficacy of the Data Standards will not become clear until providers begin to implement CDR in the market, and consumers begin to use these interfaces. DSB's existing design research acknowledges that CX Guidelines will be implemented differently by various providers, and the usability of these models will vary⁷⁸. CX evaluation that looks for patterns in how consumer comprehension, confusion, engagement or apathy emerge in CDR use will provide valuable evidence to inform future iterations of CDR Rules and Standards, as well as data capable of informing potential development of open source assets to assist in CDR implementations.

As well as monitoring CDR's effect on economic growth, the CDR regime should continue to focus on consumer wellbeing and seek to evaluate experiences and outcomes for consumers in line with the broader principles raised in Section 3. This process should include targeted collection of data about which consumer products or services are seeing high consumer uptake and impact in people's lives. The extent to which consumers receive more competitively priced offers within market sectors under CDR designation; or can procure fair, safe, and inclusive products and services that meet their immediate and ongoing needs are important considerations in determining the success of the regime. We suggest a Consumer Outcomes Measurement Framework would be a useful tool for quantifying and communicating CDR's benefit to consumers, further detailed on page 39.

Effective enforcement of regulatory requirements is another important factor which is not covered in detail within the scope of this report. Rules and Standards can set expectations however industry behaviour must also be effectively and consistently monitored, and businesses held accountable where they fail in their duty of care to consumers. This is likely to pose new challenges that the CDR regime will need to prepare for as cross-sector data sharing becomes a reality.

Consumer comprehension of the CDR ecosystem and their consent transactions for data sharing within it will rely on more than interface design. We suggest that ongoing consumer education and outreach should be part of establishing a healthy CDR ecosystem – not only to inform consumers about the CDR, but also to build awareness and understandings of data value and data conscious behaviour in the networked economy more broadly. There are potential opportunities for CX Principles and Standards to play a wider role here, so that digital outreach assets and consumer education campaigns are informed by CX research and consumer realities.

⁷⁸ Data Standards Body (2019) [Consumer Data Standards – Phase 1: CX Report](#), p107

Recommendations



Prioritise development of a CDR Consumer Outcomes Measurement Framework, including clear indicators and measures for quantifying and communicating consumer outcomes against identified consumer issues.



Include monitoring of price spread shifts for online and offline customer segments in CDR market sectors as part of measures to gauge the impact of CDR's accessibility and inclusion standards.



Expand the remit of the Data Standards Chair to include responsibility for the creation of relevant Data Standards relating to consumer dispute and redress processes.



Consider implementing deletion of CDR data as the default action when consumer consent is no longer current in future iterations of the CDR Rules, to strengthen consumer control and protection over leakage or misuse of their data.



Diversify awareness programs and information assets for the CDR beyond outmoded concepts of an 'average consumer' and utilise the Data Standards' CX Principles in seeking to support the variety and variability of consumer experiences in communications campaigns.



Promote safe, data conscious behaviour in the networked economy more broadly as part of CDR outreach; as a means of achieving positive consumer outcomes, growing consumer confidence in CDR, and increasing consumer investment in the value of their data.



Recognise consumers as being experts in their own lives, and value the experience of vulnerable, marginalised, and digitally excluded consumers as a key evidence source for understanding where CDR data can provide broader social and economic benefits while improving individual outcomes.

A Consumer Outcomes Measurement Framework for CDR

A Consumer Outcomes Measurement Framework would be a useful tool for quantifying and communicating CDR's consumer benefit. An outcomes framework of this kind would provide a clear structure against which consumer outcomes arising from the implementation of CDR in the Australian economy can be measured and tracked through time.

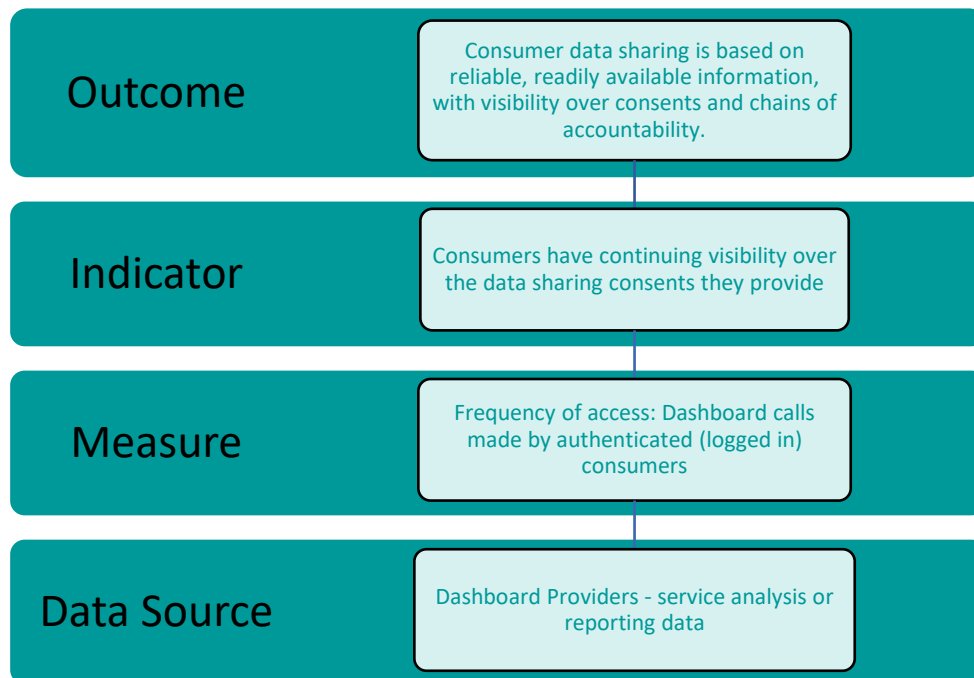
We suggest a CDR Consumer Outcomes Measurement Framework could be developed with Consumer Outcomes that reflect the key consumer issues, and relevant Indicators, detailed in Section 3 of this report. These offer a strong starting point from which to articulate quantifiable Measures and relevant data sources for evaluating CDR consumer outcomes.

Fig 4 (below) illustrates how such a framework might be structured. Regarding this diagram, we emphasise that each consumer issue/outcome would have multiple indicators and each indicator might have multiple measures.

Identifying appropriate Measures should utilise consultation or co-design processes with consumer experts and other CDR stakeholders to ensure measures are meaningful and are based on suitable data sources to demonstrate evidence for progress towards positive consumer impacts achieved by CDR.

Fig. 4. Sample line for a CDR Consumer Outcomes Measurement Framework:

Consumer Issue: *Transparency*



Other opportunities

As this project engages in consultation with community sector stakeholders, we expect to identify further gaps and opportunities to improve CDR for consumers. For now, in addition to a Consumer Outcomes Measurement Framework, we suggest three areas where the Data Standards Body might usefully focus CX research for positive consumer impact:

- Consumer dashboards
- Data with multiple consumer stakeholders
- Vulnerability by design.

Dashboards	Data with multiple stakeholders	Addressing vulnerability by design
<ul style="list-style-type: none">• A gap currently exists within the CDR framework for consumers to effectively manage consents across accounts with multiple providers and data holders who they are transacting with.• Explore viability and CX for 'birds-eye' consent dashboard that could provide an overview and management gateway for consents• This should supplement rather than replace existing obligations for data holder and data recipients to provide consumer dashboards• Further CX research on consumer requirements and comprehensibility for dashboards	<ul style="list-style-type: none">• Gaps exist in regard to balancing consent, privacy, and access to data where multiple consumers have a stake in the same data• This issue is recognised as having safety implications in relation to family violence and financial abuse• CX research to identify use cases and specific consent and authorisation needs/risks in relation to business accounts; joint accounts; and named account rights holders who are not the primary account holder	<ul style="list-style-type: none">• Consider expanding CX accessibility standards to further support a wide range of cognitive and learning ability and data literacies• Maximise inclusion and agency for consumers experiencing hardship or vulnerability through consumer consultation, and CX research and testing• Identify areas where consumer vulnerability may be produced or exacerbated by system design; explore viability of specific CX standards to protect against nudges and dark patterns

Appendix 1:

Consumer manifesto for open banking (UK)

Following the introduction of open banking in the UK, a range of consumer groups worked together to produce a *Consumer manifesto for open banking*⁷⁹ that would set out clear benchmarks for consumers, policymakers, and product providers regarding the standards and priorities that are needed to make open banking work for consumers.

We propose that developing a comparable ‘consumer manifesto for data sharing’, to be endorsed under the CDR brand, would be of benefit to building public trust in the Consumer Data Right. A manifesto of this kind could provide outreach opportunities to build public recognition of the CDR and the CDS as trust marks for data portability, and assist in a strengths-based approach to consumer comprehension of data sharing and data safety; as well as nurturing consumer confidence and growing trust capital for business.

The UK manifesto was launched in May 2018 at an open banking convention hosted by Finance Innovation Lab and the Open Banking Implementation Entity (OBIE). It sets out five core prerequisites for building trust with consumers and delivering the types of services they need and expect:

The consumer manifesto for open banking

- Open banking should be a force for good which promotes financial inclusion and widens access to more useful, affordable and understandable financial services for everyone.**
- Services should meet people's positive expectations, be upfront about how they're paid for and how they use personal data. They should be sold and delivered in a way which respects people's identity, their data and their right to make the most of their money and live the lives they want to.**
- Open banking should genuinely equip people with real power to control access to their account and use of their data. People should be able to stop sharing access to their account easily without facing penalties.**
- Open banking should be reliable and as secure as it possibly can be. It should be clear to people with whom they are sharing their data and the legitimacy of those companies. Data breaches and fraud should be rare and exceptional, not the rule.**
- People, their identity and their money should be universally safe. People should not bear unfair risk. When things go wrong people should have simple, free, quick access to help and redress.**

⁷⁹ See: <https://financeinnovationlab.org/wp-content/uploads/2018/05/Open-Banking-Consumer-Manifesto.pdf> (accessed 31 July, 2020).

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