

6 March 2023

Committee Secretary
Economics Legislation Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear the Economics Legislation Committee,

Re. Treasury Laws Amendment (Consumer Data Right) Bill 2022

Thank you for inviting Zepto to submit a submission for the Senate Inquiry regarding the *Treasury Laws Amendment (Consumer Data Right) Bill 2022 (Bill)*.

As the first non-bank fintech approved to connect directly to the New Payments Platform as a 'Connected Institution', and the first non-bank payments provider to become an Accredited Data Recipient, Zepto is well placed to contribute to the conversation on the expansion of the Consumer Data Right (**CDR**) framework to enable action initiation, particularly around payment initiation.

We strongly believe that the CDR framework is a significant piece of digital infrastructure and action initiation will play a critical role in driving innovation and delivering better experiences and outcomes for consumers and businesses. It is in the Government's best interests to create a licensing regime that will foster further innovation of CDR use cases and enable the ecosystem to continue to thrive, whilst ensuring the right protections are in place.

Zepto's founders recognised early that the combination of real time insights and payments had incredible potential. As entrepreneurs operating a thriving skydiving business in Byron Bay, they felt first-hand the debilitating effects of the payments status-quo. Zepto was founded on a question they often asked themselves: *In a modern digital economy, when just about everything moves at click-speed and with so much data readily available, why do payments still move so slowly and why are they so blind?* The company is a response to the very real payment challenges that our founders thought should have been resolved long ago. At our core Zepto helps businesses take, make and manage payments.

Since its inception in 2017, Zepto has grown to be an award-winning, payments technology infrastructure company processing some \$50 billion of payments annually. Last year we launched into New Zealand and are assessing other international jurisdictions including the US. With a remote workforce of 90 employees (and growing), Zepto is providing job

opportunities for many across regional Australia and adding value to the economy as we scale.

In the following section, we make some specific submissions in relation to the Bill.

If you require further information or have any questions, please contact our Senior Legal Counsel, Gabe Perrottet

Yours sincerely,

Chris Jewell
Chief Executive Officer (CEO), Zepto

Re. Treasury Laws Amendment (Consumer Data Right) Bill 2022

Submission

Zepto makes the following seven submissions regarding the *Treasury Laws Amendment (Consumer Data Right) Bill 2022 (Bill)*. The fourth, fifth and sixth submissions reflect points made in Zepto's formal submission to Treasury dated 24 October 2022 as part of Treasury's consultation process on the exposure draft legislation to enable action initiation in the Consumer Data Right (CDR).

First, before the Minister declares an action type, it is critical that the Minister be required to consider how the declaration impacts the promotion of competition (as is currently required before the Minister can designate a sector of the Australian economy to join the CDR for data sharing, pursuant to s 56AD(1)(a)(iv) of the *Competition and Consumer Act 2010*). It is critical, for example, that voluntary action service providers (VASPs) are not unfairly discriminated against from participating in action initiation.

To illustrate the concern, example 1.1 on page 7 of the Explanatory Memorandum provides an example of a Ministerial declaration for the action of a variable recurring payment initiation. Acknowledging that it is only an example, it specifies Authorised Deposit-Taking Institutions (ADIs) as the class of data holders that will become the action service providers (ASPs) for the variable recurring payments. This would unfairly exclude non-ADIs who may be accredited as VASPs for the action of making variable recurring payments. This would

constitute the creation of a bank monopoly within the CDR which would stifle innovation and ultimately lead to worse outcomes for businesses and individuals (through likely higher fees and less customer choice).

Increasing competition in the payments industry is one of the key challenges facing the industry outside of the CDR. Zepto does not want to see this challenge compounded within the CDR.

Secondly, the regulatory framework for action initiation in the CDR needs to be simple, clear and, to the extent possible, centralised. This is essential to creating a more profitable, compliant and competitive CDR framework. It also encourages fintechs like Zepto to innovate around the CDR framework and build compelling use cases for consumers.

The payments industry is one of the most regulated industries in Australia, with the Australian Securities and Investments Commission, the Australian Transaction Reports and Analysis Centre and the Reserve Bank of Australia all playing key roles. The roles of the Australian Competition and Consumer Commission (**ACCC**) and the Office of the Australian Information Commissioner in the CDR, although obviously necessary, add another layer of regulatory oversight for payments companies. The Parliament should therefore reduce, wherever possible, red tape in CDR action initiation in order to ensure that it presents an attractive investment opportunity for payments companies and fulfils its potential for businesses and individuals.

Thirdly, the fee to be a VASP (referred to in paragraph 1.136 of the Explanatory Memorandum) should be of a magnitude to not act as a barrier to entry for smaller industry players. Again, this is relevant to promoting competition among ASPs and VASPs in the CDR which ultimately serves the interests of businesses and individuals.

Fourthly, accreditation applications should factor in the work undertaken, by both the applicant and the ACCC, in respect of other successfully completed accreditation applications. For example, an Accredited Data Recipient (**ADR**) should have an expedited or streamlined application to become a VASP, given the rigour of and the overlap with the ADR application process.

Fifthly, public consultation periods to be undertaken by the Minister prior to declaring an action type should be brief. The Parliament should consider removing the 60 day requirement referred to in paragraph 1.31 of the Explanatory Memorandum and rely solely on the requirement that the Minister needs to consider the legislatively prescribed matters (referred to in paragraph 1.23 of the Explanatory Memorandum) and undertake the legislatively prescribed tasks (including the tasks to be undertaken by the Secretary, ACCC and Information Commissioner, referred to in paragraphs 1.26 to 1.30 of the Explanatory Memorandum) before making a declaration.

Sixthly, in making rules which apply to certain action types, the Minister should be required to have regard to the rules which already apply to that action type outside the CDR, and be conscious of the impacts of further and potentially duplicative regulations on efficiency and competition in the CDR. This is a particular concern in highly regulated industries such as the payments industry.

Seventhly, the Parliament should give consideration to whether the “efficiently, honestly and fairly” obligation for accredited persons, referred to in paragraphs 1.89 to 1.91 of the Explanatory Memorandum, is appropriate. As noted in the Explanatory Memorandum, the obligation is modelled on the equivalent obligations on providers of financial services in the *Corporations Act 2001*. The examples of conduct that this obligation is seeking to address, set out in paragraph 1.91 of the Explanatory Memorandum, are concerned with honesty and fairness, but not efficiency. Obligations on accredited persons need to be fit-for-purpose and reflect the responsibilities the persons are taking on.

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We are grateful for the opportunity to provide comments on the Bill. We welcome the opportunity to discuss any of our comments, either in confidence or as part of the Senate Inquiry, and are keen to work alongside the Parliament to ensure that these issues are appropriately considered.