



27 February 2019

Senate Economics Legislation Committee

Dear Committee Secretary,

ACCAN thanks the Senate Economics Legislation Committee for the opportunity to submit to its consultation on the further provisions of the exposure draft of the *Treasury Laws Amendment (Consumer Data Right) Bill*.

The revisions to the bill have addressed some of ACCAN's concerns with respect to the clarity of drafting, however many of the concerns set out within our initial submission to the Treasury remain. We encourage the Committee to consider further revisions for the final bill.

As noted in our previous submissions, there are issues with respect to:

- the extent to which the bill addresses fundamental and entrenched information asymmetries;
- the potential for consumer data to be used for anti-competitive conduct; and
- the scope of consumer privacy protections.

ACCAN's concerns regarding the substance of consent requirements have been broadly addressed in the *Consumer Data Right Rules* which sets out the ACCC's in principle approach to rules development. ACCAN will engage further with the rule making process when the consumer data right is extended to the telecommunications sector.

The Consumer Data Right (CDR) has the potential to provide significant benefits, particularly to those consumers with limited financial resources. Although supportive of the proposed CDR reforms, ACCAN considers that further refinement of the legislation is required to address asymmetrical information, prevent the use of consumer data for price discrimination or targeted price rises and prevent breaches of consumers' privacy through the loss, theft or misuse of their data.

ACCAN believes that these risks can be addressed through comprehensive privacy protections including clear obligations for third party data recipients, targeted policy interventions to prevent emerging information asymmetries, and an exemplary penalties framework for use of consumer data for anti-competitive purposes. ACCAN also calls for the legislation to ban the use of CDR data for re-identification of individuals in order to prevent consumers facing undue loss of privacy and health and safety risks as a result of malicious parties having access to detailed information about their habits and movements.

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ACCAN's position on the bill and accompanying regulation are set out in further detail in the attached submissions that we have previously made to the Treasury and the Australian Competition and Consumer Commission.

Thank you for the opportunity to submit to the Committee on these important reforms. Please do not hesitate to contact us should you require clarification or additional information on any of the issues raised.

Yours sincerely,

Gareth Downing

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