

QUESTIONS ON NOTICE – HoR ECONOMICS COMMITTEE INQUIRY INTO ECONOMIC DYNAMISM, COMPETITION AND BUSINESS FORMATION

Question 1: CHAIR - *Thanks, Mr van Manen. We don't have a lot of time left, but I did have a couple of other topics and then I'll let anybody make final observations at the end if they want to. The first one is something we've touched on to a degree already, but I just want to get specific comments on the enhanced regulatory sandbox that's in place.*

One of the tensions I think we find in Australia, in this sector but more broadly across innovation—and this is something we see right across innovation—is that there are a lot of benefits from the disruption of innovation and the productivity growth that we can see from it. But sometimes we find that regulators find themselves behind the game in a sense and that there could be issues relating to consumer protection or occupational health and safety.

There could even be industrial relations type issues, where you might find in certain contexts people being remunerated in new but not necessarily transparent ways. We don't want to regulate in a way where we're throwing the baby out with the bathwater. So we have this approach that we see in a number of jurisdictions. I think the UK also has this kind of approach. It's probably more advanced than ours. But we do have a regulatory sandbox. I guess I'm just interested firstly in anybody's comments on how we might potentially expand the operations of the sandbox in a way that is pro-innovation but in a way where we're appropriately protecting customers.

Are there other things that we might think of? These are things that I guess I'm just pulling out of left field. You might, for example, imagine situations where there's innovation which doesn't necessarily fall within the remit of a regulator. Might it be appropriate to give the regulator access to some data in that innovative space before that regulator's powers have been expanded by legislation, just to give government and regulators a bit of a sense of what's going on? Might there be, for example, an approach where you might have the ACCC or some other regulator undertake a quick deep-dive or a market review of what's going on so as to get a sense of what's going on? What are the different ways we might try to have an intermediate approach on before we go full-blown down the path of trying to regulate something that's new and innovative, albeit that might be motivated by very appropriate desires to protect customers or deal with other appropriate regulatory goals?

Answer: Australia has a number of regulatory sandboxes to assist FinTech firms. For instance, ASIC's Enhanced Regulatory Sandbox (ERS) has been successful in enabling business to test certain innovative financial services or credit activities without obtaining an Australian financial services licence or Australian credit licence (for up to 24 months).

The ACCC's Consumer Data Right (CDR) sandbox is another example. The sandbox helps existing and potential CDR participants to build, test and improve their CDR solutions by setting up a secure testing environment within which CDR participants can set up their own CDR solutions and communicate with existing mock solutions and other participants.¹ This reduces the time and costs of becoming an active CDR participant or updating existing CDR offerings. To improve the operation of the CDR sandbox, we recommend creating a pathway from the graduation from de minimis thresholds to the sandbox. This could help facilitate the upscaling of compliance solutions for both companies and emerging products.

¹ [ACCC, ACCC launches CDR Sandbox to assist participant design, build & testing](#)

More broadly, we recommend looking into models used in other FinTech hubs such as Singapore for lessons to encourage responsible FinTech innovation. For instance, Singapore's regulatory sandbox for FinTechs is supported the FinTech and Innovation Group (FTIG), which sits within Singapore's financial regulator – the Monetary Authority of Singapore (MAS), and is responsible for regulatory policies and developing strategies to encourage the use of technology and innovation in the financial services industry.

FTIG comprises of:

- a) **Payments & Technology Solutions Office**, which is responsible for formulating regulatory policies and strategies for payment technologies and other technology solutions for financial services
- b) **Technology Infrastructure Office**, which is responsible for regulatory policies and strategies for developing safe and efficient technology enabled infrastructures for the financial sector
- c) **Technology Innovation Lab**, which finds cutting-edge technologies with the potential to be applied in the financial industry and work with the industry and relevant parties to test innovative new solutions.

These work together to allows firms (e.g. FinTech startups and financial institutions) that intend to conduct activities regulated by MAS to test innovative financial services and business models in the market for the duration of the sandbox within a safe and low-regulatory pressure environment.

Question 2: CHAIR - There are a few other things. CDR we've touched on, but anything on CDR—it's a very detailed area, but I know that some feel that it's an area where we could potentially empower consumers but also that it's potentially a pro-competitive reform. So any observations you want to add—some already have, but anything additional on that would be useful.

Answer: The TCA strongly supports a thoughtful and proportionate approach to data sharing and portability through the CDR that would enable a dynamic, safe and secure data ecosystem for consumers and businesses in Australia.

The CDR has the potential to empower consumers with better products and services, and improve competition and cross-sectoral innovation. However, the scheme is limited by design and implementation issues, particularly around functionality and data quality, as outlined in the Statutory Review of the CDR.

To date, adoption and use of the CDR has been low, despite being launched nearly two years ago in the financial services sector. Organisations, especially small businesses, are finding it difficult to comply with the scheme, while other accredited organisations are yet to be fully compliant or using the scheme. This has limited the number of vendors and consumer services offered in the market, and restricted data flows in the CDR ecosystem.

To that end, we recognise why the Government has decided to pause implementation of the CDR across the superannuation, insurance and telco sectors. This will allow time for the CDR to mature across the banking and energy sectors and to implement lessons learned to date.

We also welcome the Government's 2023 – 2024 budget funding for expansion of the CDR to the non-bank lending sector, which has the potential to empower consumers and drive innovation and productivity across the FinTech sector. Combining non-bank lending data

with data from Open Banking will enable consumers to better understand their circumstances and make better and more informed financial decisions. It will also help support a variety of use cases such as budgeting and comprehensive credit assessments, and provide providers with a clearer picture of customers, enabling providers to offer more innovative and personalised products.

Lastly, we support measures that incentivise small business participation in the CDR and enable them to compete with larger firms on equal terms. Such measures include for instance introducing de minimis thresholds for data sharing as well as thresholds for new trial products. These measures encourage small businesses to innovate and build consumer momentum without the pressures of meeting regulatory obligations of larger firms.

Question 3: CHAIR - There are a few other things. CDR we've touched on, but anything on CDR—it's a very detailed area, but I know that some feel that it's an area where we could potentially empower consumers but also that it's potentially a pro-competitive reform. So any observations you want to add—some already have, but anything additional on that would be useful. Fintech bridges we have, in relation to the UK—I think that was 2018. I think we have one with Singapore. Anything anybody wants to observe in relation to that would be useful.

The TCA supports Australia's FinTech Bridge agreements with the UK and Singapore. We also support Australia entering into similar agreements with other countries in our region such as South Korea. FinTech bridges play a critical role in supporting the growth of Australia's FinTech sector by connecting the sector with leading FinTech hubs such as the UK and Singapore, which are among the top target markets for future international expansion among Australian FinTechs.² FinTech bridges support FinTechs to scale globally by streamlining regulatory requirements, facilitating trade and investment and enabling the sharing of best practices in FinTech policy between governments and regulators. In doing so, FinTech bridges help drive productivity and dynamism by enabling the growth of Australian FinTech businesses while facilitating the entry of trusted overseas businesses who can drive competition and innovation in the sector and the economy more broadly.

Answer:

FinTech bridges reduce barriers to entry for startups

Startups face a number of challenges when expanding into new markets, including information barriers such as limited or unreliable information about the entry market, financial barriers such as a shortage of funds to finance the expansion, and regulatory barriers such as difficulty finding the necessary information in laws and obtaining licences.³

FinTech bridges help reduce barriers to entry for startups by providing a 'one-stop shop' service for firms to access legal, regulatory and practical advice about setting up in new markets, providing access to financial assistance, and streamlining regulatory requirements for startups already accredited in their home countries. These measures support Australian firms to scale globally, and help foreign entrants compete and innovate, driving productivity and dynamism across the economy.

² [EY FinTech Australia Census Report 2022](#)

³ [OECD. Glossary for Barriers to SME Access to International Markets](#)

FinTech bridges support investment and trade

Foreign investment is critical to the growth of Australian startups, accounting for 50% of all venture capital investment in Australia.⁴ FinTech bridges help attract foreign investment in startups, bringing expertise, new business models, technologies and processes, as well as global connections which can spread knowledge and good management practices.⁵ For instance, the UK – Australia FinTech Bridge supports FinTech startups by facilitating introductions to potential investors and partners who can provide mentorship and advice on startup challenges such as market entry and international expansion.

FinTech bridges also signal to other foreign investors that Australia is a destination with attractive features such as high skilled labour, infrastructure and favourable policy frameworks. This helps attract and diversify venture capital investment in Australia, while positioning Australia as a globally connected startup hub.

FinTech bridges support collaboration on policy development

In the FinTech sector, shared learning and consistency between regulators is particularly critical. FinTech bridges facilitate policymaking and collaboration between Australia and its partners on digital economy regulation such as the CDR as well as new and emerging technologies such as digital assets, which pose regulatory challenges to jurisdictions globally. The sharing of policy and regulatory best practices and testing of innovative regulatory ideas in multiple jurisdictions can help Australia design better regulation and position Australia as a leader in digital economy regulation. This in turn makes us a more attractive destination for investment and talent compared to jurisdictions with uncertain regulatory frameworks.

For instance, Australia can benefit from the UK's lessons in Open Banking, which currently has over 7 million active users and is transitioning into its next phase of development, which will be focused on increasing availability and performance, mitigating the risks of financial crime and ensuring consumer protection.⁶ Learning from the UK's implementation of Open Banking can help Australia generate and benchmark solutions to issues facing the CDR, such as restricted data flows in the CDR ecosystem, and predict potential future issues, enabling Australia to design more robust and fit-for-purpose regulation.

Additionally, Australia can learn best practices in digital assets regulation from Singapore, which issued guidance on Digital Token Offerings as far back as 2017, and the UK which in 2022 recognised stablecoins as payment and announced plans to make the UK a 'global crypto-asset technology hub'.⁷ In fact, Australia could become a leader in responsible digital assets innovation and catalyse \$15-20B in additional investment in digital assets by embracing a similar principles-based regulatory approach as the UK and Singapore.⁸

FinTech bridges also help other regulatory authorities learn best practices from Australia. For instance, in the BNPL sector, we have seen the UK Financial Conduct Authority look at Australian regulators' approach to developing a fit-for-purpose regulatory framework for the

⁴ [DISR, Venture Capital Dashboard FY 2021/22](#)

⁵ [Productivity Commission, 5-year Productivity Inquiry: Innovation for the 98%](#)

⁶ [Joint Regulatory Oversight Committee, Recommendations for the next phase of open banking in the UK](#)

⁷ [Tech Council of Australia, Digital Assets in Australia](#)

⁸ Ibid.



sector that encourages innovation as well as important engagement opportunities with consulate offices for industry.