



19 December 2019

Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: fintech.sen@aph.gov.au

Dear Sir/Madam,

Consultation – Financial Technology and Regulatory Technology Inquiry

As a major Credit Reporting Body within the Australian credit landscape, illion (formerly Dun & Bradstreet Australia and New Zealand) welcomes the opportunity to provide this submission to the Senate Select Committee on Financial Technology and Regulatory Technology (**the Committee**) regarding the inquiry into the current state of Australia's FinTech and RegTech industries (**the Inquiry**).

illion acknowledges the Committee's willingness to evaluate the ever-evolving financial services sector, to harness technology and innovation and ensure that Australia remains internationally competitive. Australia's FinTech industry has proven to be fertile ground for employment growth and dynamic consumer-oriented solutions.

illion is pleased to be able to contribute to the development of this emerging sector and to assist the ongoing review of regulatory settings and competitiveness.

We feel well placed to comment on this area; in many ways we are Australia's oldest Fintech. We have been in the data market in Australia for over 130 years so have deep industry expertise, we have set up our own Fintech, Credit Simple, now with 1m members in Australia and we have purchased and run Fintechs, for example Proviso (now illion open data solutions), the leader in its field.

As a data insights and analytics business, illion transforms data into complete and actionable information, and believes that quality data is the foundation of its continued success in helping businesses (including banks) manage risk and secure appropriate consumer outcomes.

Illion's digital infrastructure is relied upon by over 15,000 corporate and government clients, and over 1.3 million consumers. It is vital that regulatory reforms in our sector satisfy consumer demands and continue to foster an environment that enables agile data solutions.

About illion

illion is the leading independent provider of data and analytics products and services across Australasia. The organisation's consumer and commercial credit registries make up a central component of Australia and New Zealand's financial infrastructure and are used to deliver end-to-end customer management solutions to clients.

Specific sector issues relevant to illion

Digital Data Capture (DDC)

The shift to an online economy is driving an explosion in the volume and complexity of data. This trend is creating an increasing need for central registries that can be depended on to securely collate, house, verify, filter and manage valuable datasets, and then convert these into accurate insights to power real-time decision making and risk management.

illion plays a central role in aggregating, verifying, and facilitating the flow of the data which powers the economy. illion's digital infrastructure underpins all of life's most important purchasing decisions — from telco and utility accounts, to mortgages and car loans, and many more. Our solutions ultimately enable businesses and consumers to make critically important yet highly complex decisions with confidence.

Digital data capture (DDC), occasionally referred to as 'screenscraping', is the process of collecting screen display data from one application and translating it so another application can display it. This is always based on the consumer's consent and will typically facilitate access to a financial service.

It allows a trusted third party data firm to access financial transaction data by logging into a digital portal on behalf of a financial institution's customer. Typically, DDC involves the third party provider creating a mirrored login page, which looks and feels similar to bank or credit card online login page.

Within the financial sector, this technology is widely used by lenders, financial management applications, personal finance dashboards, and accounting products to retrieve customers' financial data with their consent. For example, a budgeting app uses DDC to retrieve the incoming and outgoing transactions in a user's bank account, powering the analysis it provides to assist the consumer manage their spending.

illion believes DDC is a critical mechanism to empower consumers and facilitate competition, valued by consumers, is secure and cost-effective, and is making a significant contribution to the competitive dynamics in the current market. illion notes the inclusion of DDC in ASIC's December 2019 revision of Regulatory Guide 209 (RG 209), validating its use and confirming the efficiency it provides to verification processes. According to ASIC:

*"Developments in relation to open banking and digital data capture services will affect the accessibility, and cost of obtaining, transaction information and an overall view of the consumer's financial situation. These kinds of services may also help licensees to streamline their process—for example, potentially enabling licensees to complete both inquiries and verification of consumer information."*¹

¹ Australian Securities and Investment Commission (2019). *Regulatory Guide 209 Credit licensing: Responsible lending conduct*, p. 43.

illion believes DDC technology will provide an important benchmark to assess the performance of Open Banking and advises that the technology should be recognised and facilitated under the updated version of the ePayments code and permitted to operate in conjunction with Open Banking.

ePayments Code

The current version of the ePayments Code does not provide clear guidance as to which party is liable for unauthorised transactions made via a customer's account, if the customer has knowingly provided their account logon details to a third party, such as a data aggregator. This is a significant technological and market development since the last major review of the Code.

illion contends that ASIC should be more prescriptive, that DDC is a strong example of positive industry practice and that no forms of credit products, consumers or circumstances should undertake fewer inquiries or verification steps. This will provide greater clarity to lenders and other financial service providers, as well as benefiting consumers.

The ePayments Code, which regulates consumer electronic payment transactions and is currently subject to review by ASIC, could be amended to provide clarity on DDC technology and provide additional safeguards for consumers who are engaged with businesses using this capability.

DDC technology is a useful data transfer tool that is used consistently and safely to deliver substantial value to consumers and data holders.

Comprehensive Credit Reporting and Hardship

illion has been a longstanding advocate for the expansion of Australia's credit reporting system and fostering an environment that allows comprehensive credit reporting (CCR) data to be available to credit providers. An effective credit information sharing system, centred on CCR, is critical to better credit risk decision-making that enables greater access to credit for individuals and SMEs and fulfilment of responsible lending obligations.

Mandating CCR will also create an environment that encourages competition and innovation in the financial services sector. Importantly, a more competitive credit environment benefits Australian consumers more broadly, by offering pricing benefits and the capacity to demonstrate a recovery from a negative credit experience sooner than what is possible under the current 'negative only' data regime.

illion notes with interest the updated Bill - The National Consumer Credit Protection Amendment (Mandatory Credit Reporting and Other Measures Bill 2019 – that was recently introduced into Federal Parliament.

Schedule 2 of the bill incorporates the results of a review by the Attorney-General into the treatment of financial hardship information, providing the legal certainty required for this information to be shared. Based on this review, the bill establishes a new type of credit information in the Privacy Act that will indicate consumer credit contracts that are affected by a financial hardship arrangement.

illion supports the introduction of financial hardship information as a new category of credit information, to accompany repayment history information on a consumer's credit report. Hardship arrangements represent an essential consumer protection measure; consumers must have the ability to request a loan variation should they fall into a period of financial difficulty.

Despite this illion is concerned that the legislation has failed to address concerns, particularly for smaller lenders. The absence of addressing an “indulgence” arrangement between lender and customer where an informal and revised repayment schedule may be agreed (but not a formal variation of the contract) will lead to a requirement for two sets of data to be kept, one for the contract of the loan and one for the credit reporting system.

We believe this will lead to the non-mandated lenders simply choosing to not share RHI data within the CCR regime, leading to a flawed system that provides misleading and possibly incorrect data about consumers financial history.

Consumer Data Right rules – the role of intermediaries

illion welcomes the ACCC’s announcement on 25 November 2019 that it is in the process developing rules for ‘intermediaries’ within the CDR regime but we remain concerned that the proposed ACCC timelines will cause unnecessary confusion and will also affect the status of certain technologies in relation to the operation of the Draft Rules. Proposing a “mid-2020” deadline for the CDR rules to be amended to address the use of intermediaries is, in our view, too long to wait when considering the February 2020 starting date for CDR implementation.

illion already acts in an intermediary-like fashion in a pre open banking world. We service over 70 banks and finance companies and over 4000 brokers. More than 750k people per month use our services and our services underpin the data banks need to use to lend responsibly. It is critical we have quick regulatory certainty.

The role of intermediaries

The role of intermediaries is to assist in providing frictionless transactions between a product provider and its customer. The intermediary provides a service to achieve this purpose. The intermediary also acquires data which, when it is personal information, is subject to the restrictions of the Privacy Act. If an intermediary holds information that is de-identified or anonymised, this data is not subject to the Privacy Act and is subject only to rules relating to the contractual basis on which it was obtained and can subsequently be used. This data provides a rich source of information for analysis, which is made available by intermediaries to product providers and their customers and is used by product providers for purposes of improving products and services.

Absence of intermediaries in the CDR Rules

The previously mentioned ACCC process may eventually address our concerns but we wanted to clearly spell out the key potential impacts of the absence of intermediaries in the Draft Rules of CDR, as they currently stand.

- a) illion and its subsidiaries operate in supporting the operation of the banking system, and have done so for many years in relation to various data services. The Draft Rules consider only four key types of entities and do not specifically consider the role of intermediaries and how they would be able to comply with the Draft Rules, which are likely to negatively and unintendedly impact intermediaries. The failure to specifically address the role of intermediaries, which are currently an integral part of the operational ecosystem, provides, on its face, drafting that may prevent these organisations from operating in an Open Banking environment or impose a high regulatory burden, which is unnecessary given intermediaries’ existing place and role in the ecosystem.

- b) Where illion operates as a credit reporting body and is regulated within Part IIIA of the Privacy Act, it is not impacted by the Draft Rules. However, the Draft Rules override the Australian Privacy Principles (APPs) where applicable, and any information held will be subject to the Consumer Data Right (Authorised Deposit-Taking Institutions) Designation 2019 (Designation Instrument). Generally, the APPs rather than Part IIIA of the Privacy Act will apply to the role of an intermediary, and the information held by the intermediary will relate to a 'product' as defined in the Designation Instrument and regulations. Therefore, information held by an intermediary about a product user (under section 6 of the Designation Instrument) will be subject to the Draft Rules. This is notwithstanding the fact that any materially enhanced information retained by an intermediary will be exempt on account of its analysis and enhancement. However, to reach this state, the intermediary needs to traverse the regulated territory – unless a further recognition of the role of the intermediary is embedded in the Draft Rules.
- c) Additionally, Information held by an intermediary relating to consumers and product providers will likely be captured by the definition of 'CDR data' under section 56AI of the Competition and Consumer Act 2010 (Cth) (CCA), despite the fact that the information is not being held for the purpose of providing a product, or in the identified roles of operating as a gateway or for the purposes of acting as an accredited data holder. Accordingly, existing operations of intermediaries, who manage their obligations to consumers in relation to personal information are already sufficiently regulated by the Privacy Act and by the provisions imposed on intermediaries for their services by product providers (in order for those product providers to meet their regulatory requirements under the Draft Rules). Intermediaries will, as an unintended consequence, be found to fall within the Draft Rules but be unable to comply with the Rules, because they do not sit within any of the recognised roles of data holder, accredited data holder or designated gateway that are currently contemplated by the Draft Rules.

Application of CDR and Open Banking Principles

illion continues to advocate for the implementation of an effective and robust Open Banking regime in Australia, delivering a stronger Australian economy, enhancing competition and facilitating positive consumer outcomes. The advent of Open Banking will minimise consumer inconvenience and improve access to competitive financial services. We welcome the positive impacts Open Banking will have on industry, such as improved costs connected to anti-money laundering and know-your-customer compliance obligations through the extension of Open Banking requirements to identity verification.

In addition, illion believes Open Banking will provide the first important implementation of the CDR in Australia which will also offer significant benefits to consumers and industry players in other sectors such as telecommunications, utilities and healthcare.

Given the proliferation of mobile phone usage, the complexity of mobile plans, the importance of cost-effective telecommunications, and the broad reach of the sector, illion sees this as an organic next step in the implementation of the CDR principles. The formal introduction of Open Banking in February 2020 should provide sufficient opportunities for industry to observe and adapt to changes to the ecosystem. The lessons learned through this process will be invaluable in transitioning CDR through to telecommunications, superannuation, energy and beyond.

Conclusion

If you have any concerns or questions please do not hesitate to contact me at any time

Yours sincerely,

Steve Brown
Director – Bureau Engagement