



23 December 2024

CDR Framework Unit
The Treasury
Langton Cres
Parkes ACT 2600

via email: CDRRules@treasury.gov.au

Dear Sir/Madam

Competition and Consumer Act 2010, Competition and Consumer (Consumer Data Right) Amendment (2024 Measures No. 2) Rules 2024

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to comment on the draft Competition and Consumer (Consumer Data Right) Amendment (2024 Measures No. 2) Rules 2024, which we note are designed to both extend the Consumer Data Right (CDR) to the non-bank lending sector and narrow the scope of CDR data for the banking and non-banking lending sectors to reduce compliance costs.

We note that under the draft rules, a bank or non-bank lending data holder would not be required to share consumer data, if the data was in relation to a transaction that occurred more than 2 years before the time of the request (noting that currently, accredited persons may ask for certain consents with a maximum duration of 7 years). The ASBFEO understands the rationale of this change as reducing compliance costs, especially for smaller lenders, and facilitating their inclusion into the CDR regime.

We support the draft rules and the inclusion of the non-bank sector, as CDR offers an important opportunity for small businesses to gain access to, share, and transfer their data with accredited third parties to compare products, services and insights that can lead to financial and operational benefits. Unfortunately, for the 2.6 million small businesses in Australia, many are not experiencing the promised benefits of CDR because of low participation and awareness. A study by the Australian Banking Association found that by the end of 2023, only 0.31% of bank customers had an active data sharing arrangement.¹

We recognise that increasing the options for small businesses to gain access to finance through non-bank lending allows small businesses, whose circumstances may not fit neatly with a bank's credit criteria, to secure the capital required for them to start, build, grow and transform their business. Approximately 25 per cent of small business lending is now provided by non-bank lenders, who may offer faster approvals, flexible terms, and innovative financing solutions.²

We have therefore long argued for the introduction of CDR to the non-bank lending sector, as we consider it will provide consumers opportunity to gain a more complete picture of their financial circumstances and options, and further encourage competitiveness and reward innovation within the financial sector. However, the number of bank customers (i.e. consumers) developing active

¹ Australian Banking Association (ABA), *Consumer Data Right Strategic Review*, ABA, July 2024, p 1. In contrast, some aggregation platforms have reported that they are connecting much higher shares of customers to the CDR and argued that the ABA figure does not account for single-use cases, such as lending approvals. See James Eyers, 'Fintechs accuse banks of sabotage on "open banking"', *Australian Financial Review*, 3 July 2024.

² Reserve Bank of Australia (RBA), *Bulletin – October 2024, Small Business Economic and Financial Conditions*, RBA, 17 October 2024, p 26



data sharing arrangements remains low, and the Australian Banking Associations 2024 Consumer Data Right Strategic Review found that CDR uptake is limited compared to other large scale digital initiatives such as PayID and mobile wallets.³

We therefore offer the following commentary and recommendations for the CDR Framework Unit's consideration:

Recommendation 1: The Australian Government should explore options in collaboration with industry bodies that represent small businesses, on the most effective method for increasing awareness and understanding of the CDR framework among small and family businesses.

To increase the low participation of small businesses using the CDR, the Australian Government should work with industry bodies which represent small business on the most effective means of increasing participation.

We have heard from stakeholders that there may be several factors contributing to the low participation rate of small businesses, which include:

- limited awareness of CDR
- limited understanding of the potential benefits of CDR for improving competition, enhancing financial decision-making efficiency and strengthening cyber-security
- lack of clarity about CDR guidelines and how trusted advisers can help them gain access to CDR data
- the perceived complexity and unwieldiness of the CDR for users
- the high cost of accreditation for small-business lenders.

By working with industry representatives, the Australian Government can develop a better understanding of the barriers that small business face in using the CDR. This will equip the Australian Government with a better understanding to implement solutions that increase participation by small businesses.

Recommendation 2: We urge the Australian Government to undertake a strategic review of the CDR ensuring that it is fit-for-purpose and achieves its intended objectives, including the expansion to the superannuation, insurance and telecommunication sectors.

To ensure that the CDR can deliver on its intended objectives, we urge the Australian Government to undertake the strategic assessment, announced in June 2023, by the Assistant Treasurer and Minister for Financial Services. While the Minister has stated that the government will pause the expansion of CDR into superannuation, insurance, and telecommunications into 2025, while it continues implementing CDR into non-bank lending, the strategic assessment presents a timely opportunity to further explore how CDR could be extended into other sectors.⁴

CDR presents an opportunity for small businesses to realise financial benefits, especially given current business conditions are resulting in higher costs for small businesses. A 2024 NSW businesses conditions survey finding the rising cost of insurance premiums the highest concern for

³ Australian Banking Association (ABA), *Consumer Data Right Strategic Review*, ABA, July 2024, p 9

⁴ The Hon Stephen Jones MP, *Address to the Committee for Economic Development of Australia*, the Treasury, 7 June 2023, accessed 19 December 2024



small businesses.⁵ Expanding the CDR to the insurance sector, and increasing the uptake of CDR by consumers, may be one element in supporting more affordable insurance options for small businesses.

Similarly, small, family and farming businesses have consistently identified energy costs as a significant and increasing input cost pressure at a time a number of retailers are promoting plans they assert are better designed and value for these workplaces. Complex and varied tariff rates and time of use parameters for consumption lend themselves to a small business accessing specific details about their energy-use patterns and associated pricing to be able to compare and seek a better deal from providers.

We encourage the Australian government to undertake a strategic assessment as a priority so that small and family businesses may begin to take advantage of the promise of the CDR.

If you require any further information, please do not hesitate to contact the Policy & Advocacy team at the ASBFEO, via email at advocacy@asbfeo.gov.au.

Yours sincerely

The Hon. Bruce Billson

Australian Small Business and Family Enterprise Ombudsman

⁵ Business NSW, *NSW business conditions: Mixed expectations for 2025*, December 2024.