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Strategic Assessment Team
Consumer Data Right Division
The Treasury
Email: data@treasury.gov.au

Dear Sir/Madam

TREASURY CONSULTATION PAPER – STRATEGIC ASSESSMENT ON IMPLEMENTATION OF AN ECONOMY-WIDE CONSUMER DATA RIGHT

The Australian Industry Group (Ai Group) welcomes the opportunity to make a submission on Treasury's Consultation Paper on its strategic assessment to inform an economy-wide Consumer Data Right (CDR).

Ai Group's membership comes from a broad range of industries and includes businesses of all sizes. Given the growing engagement across the business community with every business having the capability of having a digital business or platform, we are particularly focussed on the implications for the broader cross-section of Australian businesses.

Overall, we support the Government's announcement of its Digital Economy Strategy in the 2021-22 Budget. As noted in the Consultation Paper, the Government has committed as part of its Digital Economy Strategy to an accelerated economy-wide rollout of the CDR with a new sector to be assessed and designated every year.

Industry recognises the importance of protecting customer information and data. We support a data and privacy regime that benefits both customers and businesses, including improved transparency and customer experience, irrespective of the specific regime. The regulatory environment should also be conducive to the promotion of digital investment, innovation and competition that benefits industry and the community in the long term. In principle, we support a regime where the CDR could be a solution if it delivers on these outcomes.

We strongly believe that any regulatory consumer-related initiatives considered for implementation be supported with adequate evidence and assessment. Any development of a solution including the CDR must be undertaken through stages of robust consultation and testing, which is to ultimately ensure an outcome where consumers receive the most benefit through increased opportunity to access competitive products and services. However, we would be concerned if initiatives such as the CDR were expanded more broadly to sectors without: sufficient evidence of its value for consumers in those sectors to which it already applies; assessment of the consumer demand and impact on industry; consultation with industry and consumers; and testing to ensure real world use and value to consumers. As the CDR is still in its relative infancy, consideration of expanding the CDR to other sectors will need to be changed and adapted across different sectors. Therefore, a generic expansion of the CDR could have unintended consequences.

The current COVID-19 pandemic presents an additional impost on businesses that needs to be taken into consideration. We are mindful of consequences that sectoral designation of the CDR could have for businesses that are already stretched in meeting the needs of consumers during this pandemic. Additional unnecessary regulatory costs could stifle business investment, innovation and competition, while providing little value (if any) to consumers.

Therefore, before contemplating expansion of the CDR as a solution for any given new sector, proper consultation, analysis and assessment of issues, underlying causes, and options to address these issues will be required. A robust and considered cost-benefit assessment for any recommendations will also be required.

This will become an even more critical issue once we emerge from the ongoing uncertainty and adverse impacts of the COVID-19 pandemic. We continue to face a health crisis and economic crisis, leading to massive economic dislocation and unfolding hardship. Proper measures need to be in place to ensure that businesses remain sustainable and globally competitive, rather than hinder them through activities that create unnecessary compliance costs for, and potentially threaten, businesses and fail to increase benefit for consumers.

To this end, we previously raised several matters in our submission to Treasury's Issues Paper on its inquiry into future direction for the CDR in June last year. We maintain that those issues are still pertinent to this review.

Our 2020 submission focused on the broader application of the CDR across sectors, and discussed several issues that required proper consideration including: scope, future role and outcomes of the CDR; international context; consumer switching; read and write access functionality in the CDR; linkages and interoperability with existing frameworks and infrastructure, and leveraging CDR infrastructure; and consumer protection.

To help overcome some of these concerns, we also recommended in our 2020 submission ways in which these could be addressed, including: following proper process for sectoral assessment and designation of the CDR that takes into account our issues; consideration of regulatory sandboxes and other alternative light-handed regulatory approaches (e.g. innovation hubs) to test innovative ideas associated with the CDR; further consideration of alternative CDR approaches such as a low-cost CDR for sectors where there may be only incremental benefits from an overly comprehensive approach; and improved coordination and alignment between the CDR work and various activities of the relevant bodies and agencies.

These were preliminary views at the time. Since Treasury's consultation last year, there have been a range of other interrelated consultations and activities in addition to the announced Digital Economy Strategy. We wish to bring to Treasury's attention the following activities, including (but not limited to): Attorney-General's Department (AGD) review of the *Privacy Act 1998* (Cth); Department of Industry, Science, Energy and Resources' AI Action Plan; and Department of Home Affairs' critical infrastructure security reforms, and cyber security regulations and incentives consultation. In terms of process, we recommend that better coordination should be undertaken by Treasury and other relevant Government agencies to enable for proper consultation for both this review and other activities.

For example, with respect to the AGD's Privacy Act Review, it may be prudent for Treasury to consider integrating or aligning its CDR Review with the Privacy Act Review, especially as there are interrelated privacy and data protection regulation considerations. This would benefit consumers and industry by ensuring a more integrated approach – as opposed to creating multiple and overlapping privacy regimes.

In addition to the above considerations (including issues raised in our previous submission), we suggest further thought and consultation be given to the following:

- A criteria for prioritising additional industry sectors should factor in relevant sectoral considerations such as whether there is currently availability of data access and portability tools. This could help to inform on matters such as regulatory burden and costs for incumbent businesses to implement new regimes, and whether there is any additionality in introducing new systems that may already exist in the market. However, this is only one example, and there are likely to be a range of other considerations that will need to be properly factored in with respect to a cost-benefit assessment.
- More transparency should be given to the operation of the existing CDR regime, including the banking sector. For instance, how many requests have been made? This could assist in better understanding consumer awareness and value of the CDR.
- To enable proper policy scrutiny and transparency, any Treasury recommendations (and reasoning behind the recommendations) that may arise from this review should be published and consulted with industry; for example, a draft report with draft recommendations and reasoning.

We would also welcome the opportunity to work closely with Treasury and bring together a range of industries who may be affected by this consultation to be consulted with further. This will be especially

important for industries that may not be familiar with the operation of the CDR and could be captured in the future.

Without reiterating our previous submission, we include the following link to our previous submission and strongly encourage Treasury to take our previous views into consideration for the purposes of its latest consultation:

https://cdn.aigroup.com.au/Submissions/Technology/Treasury_CDR_Inquiry_5Jun_2020.pdf.

If you would like clarification about this submission, please do not hesitate to contact me or our adviser Charles Hoang (02 9466 5462, charles.hoang@aigroup.com.au).

Yours sincerely,

A handwritten signature in black ink that reads "Louise McGrath". The signature is written in a cursive style with a large initial 'L'.

Louise McGrath
Head of Industry Development and Policy