

CDR rules amendment 3

A summary



Background

The ACCC consulted on the third set of changes to the CDR rules in October-20. The proposed changes fell into three main areas:

- Introduce new accreditation levels: creating new pathways for service providers to become accredited data recipients. Proposals for new levels ('tiers') of accreditation are intended to lower barriers to entry and reduce compliance costs for service providers that do not require unrestricted access to CDR data. They also recognise that supply chains for data services regularly involve multiple service providers, and that CDR participants can appropriately manage risk and liability through commercial arrangements.
- Provide greater choices for consumers about who they share their data with: permitting accredited data recipients to disclose CDR data with a consumer's consent to third parties, including to their trusted professional advisors (such as accountants, tax agents and lawyers), and any third party on a limited 'insights' basis.
- Increase consumer benefit: allowing business and corporate consumers to access their CDR data, and adding flexibility and functionality to improve consumer experience in respect of the management of consumer consents to collect and use CDR data, joint bank accounts, and accounts that have additional card holders.



Summary of key changes

The third set of changes only address the **Increase consumer benefit** option from the consultation paper; there are no changes related to **Introduce new accreditation levels** or **Provide greater choices for consumers about who they share their data with**.

At this stage it is not clear whether further amendments are planned to address these two areas.

illion's view:

The need for tiered accreditation remains and we reiterate the point that while the consultation document had moved in this direction, our view is that this does not go far enough. This is a view supported by the Senate Enquiry into the future direction of CDR recommendations.

Even these elements of the document for consultation have been dropped from the changes.



Changes #1

Changes to Consent Rules

- Allow CDR consumers the ability to amend an existing consent (includes the ability to add or remove uses, data types, accounts or data holders, or to amend the duration of the consent).
- Provides for separate consent types.
- When a consumer withdraws an authorisation to disclose CDR data given to a data holder, the consumer's associated consent to collect the CDR data with an accredited person expires. However, the expiry of the collection consent does not automatically result in expiry of the use consent relating to any CDR data that has already been collected.

Authorising transfers of CDR data between accredited persons

- Permits accredited persons, with the consumer's consent, to collect CDR data from, and disclose CDR data to, other accredited persons who are also providing goods or services to the consumer.
- Expands the circumstances in which an accredited person may engage in direct marketing. In particular, the Amended Rules permit an accredited person to recommend to a consumer the goods or services of another accredited person, provided that the first accredited person:
 - has a valid direct marketing consent from the consumer; and
 - reasonably believes that the CDR consumer may benefit from the goods or services of the second accredited person.

Changes #2

Authorising use of CDR data for research

- Authorise an ADR that seeks to collect and use CDR data for the purpose of providing a good or service to the consumer, to also seek the consumer's consent de-identify some or all of the data to be used for general research purposes.
- The research does not need to relate to any provision of goods or services to any particular CDR consumer. It may be for a purpose unrelated to that CDR consumer, such as the ADR's product or business development.

Changes to data holder obligations

Joint accounts

The Amended Rules expand the current obligations:

- Where a consumer has not previously set up preferences for sharing from a joint account (for example, where the consumer is initiating data sharing for the first time under the CDR), data holders will be required to allow consumers to set their preferences as part of the authorisation process.
- Joint account rules, data holders are required to, at a minimum, offer a joint account management service online.
- Expands the definition of joint accounts, from accounts held in the name of two individuals, to include joint accounts held in the name of two or more individuals.
- Allows data holders to treat a joint account as if it was held in the name of one individual, where it considers this is necessary in order to prevent physical or financial harm or abuse.

Data holder dashboards and authorisation processes

- Requires data holders to include additional information in the consumer dashboard and during the authorisation process.

Changes #3

Changes to who may share CDR data

- Broadens the scope of consumers who may share CDR data to enable CDR data to be shared by non-individuals, in the context of business partnerships, and by secondary users. This functionality must be made available by initial data holders in respect of their primary brands from 1 November 2021, and otherwise for all data from 1 November 2022.

Use of the CDR logo

- The Amended Rules require an accredited person to ensure it is licensed or otherwise authorised to use any CDR logo approved by the ACCC, including as required by the data standards.

Changes #4

Clarifying rule amendments

The application of product data request rules to 'white labelled' products

- The Amended Rules provide certainty about the applicability of product data request obligations to products known as 'white-labelled' products, when both the white labeller (the supplier of the product) and the brand owner (the retailer or distributor of the product) are data holders.

Closed accounts

- The Amended Rules align data sharing requirements for closed accounts across transaction data, account data and product specific data so that a data holder is only required to share these categories of data if a request is made within 24 months of the account being closed.

Reporting and record keeping requirements

- The Amended Rules provide further clarity regarding CDR participants' record keeping and reporting obligations. The amendments will improve the quality and format of the necessary information reported to the ACCC and Office of the Australian Information Commissioner. The Amended Rules also enhance a CDR consumer's access to their records as held by data holders and ADRs.

Required and voluntary product data disclosures

- Clarify that the product data that a data holder is required to disclose may include not only information contained in a Product Disclosure Statement, but also information that is required to be disclosed.
- Require a data holder that discloses requested voluntary product data to do so through its product data request service and in accordance with the data standards. These provisions mirror those for the disclosure of required product data.

Changes #5

Clarifying rule amendments

Functions and powers of the Accreditation Registrar

- The Amended Rules provide the Accreditation Registrar (Registrar) with additional powers that can be exercised if the Registrar believes that it is necessary to protect the security, stability and integrity of the Register and the associated database, which contains information relating to data holders.

Schedule

- A transition period applies across these changes, simplistically all changes must be adopted by 1-Nov-2021.