



12 OCTOBER 2018

# CONSUMER DATA RIGHT RULES FRAMEWORK

## Submission to the ACCC

### ABOUT US

Set up by consumers for consumers, CHOICE is the consumer advocate that provides Australians with information and advice, free from commercial bias. CHOICE fights to hold industry and government accountable and achieve real change on the issues that matter most.

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## INTRODUCTION

CHOICE appreciates the opportunity to provide comments on the Consumer Data Right Rules Framework (the Rules).

CHOICE is strongly supportive of the spirit and the intention of the Consumer Data Right (CDR). The CDR aims to empower consumers through improved access to their data, and to facilitate consumer mobility between products and services. Providing consumers with relevant and accessible information about the products they consume and services they use should lead to both better individual consumer experiences and more competition in markets.

In order to succeed, the CDR must be consumer-focused, efficient, and fair. **A new system that involves consumers providing more data to third parties must prioritise protections so that data is used to deliver positive consumer outcomes rather than used to charge people more or target them with poor-value products.**

A clear disclosure regime that lets people know how their data is used is important, but not enough. Telling individuals how data is used will not stop unscrupulous practices. The system should prevent poor practices before they emerge. Companies must be required to think about consumer protections and the best interests of consumers when they use consumer data. Otherwise, there is a risk that the CDR will be used by companies to exploit consumers.

The CDR Rules Framework focuses on the banking sector but it is important to ensure that the CDR Rules Framework is as consistent as possible across sectors, particularly for rules about consent.

## Recommendations

1. CHOICE supports the ACCC's proposal to mandate that data sharing must occur via an API.
2. The ACCC should ensure that the provision of payee data to third parties does not negatively impact payees who have not consented to share their data with third parties.
3. Consumers should not be charged to access data that companies hold about them, including transaction data.
  - However, if a fee is charged, the ACCC must ensure that any fee for consumer data access requests be capped at a minimal price to ensure that consumers do not face unnecessary barriers to accessing the CDR system.

4. The ACCC should review which data sets must be freely accessed by all consumers to ensure that the CDR system remains, relevant and equitable.
  - The ACCC should review these data sets every three years, at a minimum.
5. The ACCC should develop rules that require CDR data holders to prompt customers to download their CDR data prior to terminating their relationship with the institution.
6. The ACCC should develop rules that require CDR data holders permit former customers to access key data sets for three years after they have terminated their relationship with the institution.
7. CHOICE supports the ACCC's intention to adopt the recommendations of the Open Banking review concerning the scope of customer data, transaction data and product data.<sup>1</sup>
8. The ACCC should make rules to ensure that data holders provide detailed product information that adequately reflects the specific product that the consumer is accessing. This needs to incorporate all rates, fees, charges, and discounts that the consumer has access to, as well as dates indicating the commencement and cessation of customers' benefit periods.
9. The ACCC should develop a rule that prevents businesses from using CDR data to discriminate against consumers in ways that would leave vulnerable groups unfairly disadvantaged.
10. CHOICE supports the criteria that the ACCC proposes to use in order to determine whether an applicant is to be granted accreditation as a data recipient under the CDR.
11. CHOICE supports the requirement for accredited entities to disclose their accreditation status, but the ACCC should provide more explicit requirements for the inclusion of comprehension-tested wording that accredited data recipients must use.
12. CHOICE supports the ACCC's proposal to make rules requiring consumer consent to be freely and voluntarily given, express, informed, specific as to purpose, time limited and easily withdrawn.
13. CHOICE supports the ACCC's proposal to make a rule stating that CDR consent should be unbundled from other directions, permissions, other consents and agreements.
14. The ACCC should implement record-keeping rules for data holders to ensure that the exact wording that a business presents to consumers when they agree to participate in the CDR process is documented.

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<sup>1</sup> ACCC (2018), [ACCC Consultation on Rules Framework](#), Canberra, p.18

15. The ACCC should require that all banks require customers with joint accounts to self-select that they are comfortable with all account holders to individually authorise data transfer under the CDR.
16. The ACCC should make rules to ensure that owners of shared accounts are notified when their data is being shared, and are able to quickly and easily opt out of data transfers.
17. The ACCC should introduce a 12 month authorisation period.
18. CHOICE supports the ACCC's proposal to make rules that will require all data holders, like accredited data recipients, to have a system in place which allows consumers to manage their authorisations easily.
19. CHOICE supports the ACCC's proposal to make rules that will stipulate what data holders are required to communicate to consumers as part of the authorisation process. CHOICE supports this being consumer tested, with consumer comprehension regularly evaluated.
20. The ACCC should make rules to ensure that data holders provide consumers with alternative means of accessing recordings of consumers' current and historic authorisations to share data if consumers cannot access, or choose not to access the consumer dashboard.

## Sharing data with third party recipients

Though the mechanics of data transfer can be complex, the CDR must be simple to use and understand. The CDR must enable consumers to understand their right to access data, identify an accredited third party, and successfully gain access to their data. CHOICE supports the use of a dedicated Application Program Interface (API) as a core part of the CDR system. This will build on best practices for data sharing and ensure that data is transferred securely and efficiently.<sup>2</sup>

CHOICE notes that the Treasury has proposed to limit the ACCC's rule making powers<sup>3</sup> and allocate designated data sets at a Ministerial level. Under Treasury's proposal, free data sets would be designated at a Ministerial level, and additional data sets not included in these designations such as value-add data, would be available to consumers at a fee set by accredited third parties. As these changes have not been confirmed, CHOICE's response to this submission is made on the basis that these amendments have not been finalised.

CHOICE believes that customer data, product data, and transaction data should always be freely available to consumers, and supports the ACCC's proposal that 'the sharing of the data outlined in the Open Banking review not be subject to fees.'<sup>4</sup> The proposal as drafted applies to the first version of the CDR Rules; it should be expanded to capture future iterations of the Rules that apply to banking, and to other sectors. Introducing a fee for designated data access will undermine the goal of the CDR.

CHOICE is strongly of the view that data access should be free. However, if fees are to be introduced for access to certain data sets under the CDR, it is important that the ACCC establishes a clear cap (per service) for these fees within the CDR Rules. The ACCC should ensure that consumers can gain access to non-essential data sets for free at least once a year, so that consumers who are unable to pay for value-added data are not disadvantaged. It is important for the ACCC to consider how consumers experiencing financial hardship will access their data. Businesses should be required to waive data access fees for those who cannot afford to pay them. Data holders should also not be allowed to charge consumers for access to data that would be necessary for a consumer to dispute a bill or raise a complaint with their service provider.

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<sup>2</sup> Treasury (2017), [Review into open banking: giving customers choice, convenience, confidence, Canberra](#), pg.xvi

<sup>3</sup> *Treasury Laws Amendment (Consumer Data Right) Bill 2018 (second stage) and Designation Instrument for Open Banking*, [CDR Proposals for Consultation](#).

<sup>4</sup> ACCC (2018), [ACCC Consultation on Rules Framework](#), Canberra, p.18

The ACCC has indicated that transaction data in the banking sector may include payee data, including details of who a consumer transfers money to, how much, and at what frequency. This raises the concern that a customer who participates in the CDR in the banking sector will not only expose their interactions with businesses, but interactions with other consumers. This is potentially sensitive data, that will expose transaction data that ‘relates to’<sup>5</sup> more than one consumer, yet is considered only to relate to the account owner(s). Given this, it is important to consider the implications of sharing payee data with accredited third parties, and investigate whether there is a potential to segment this data from other transaction data in order to give consumers greater choice as to whether this data is shared with third parties.

In developing the CDR Rules Framework, the ACCC should keep in mind the evolving nature of data use. As new technologies emerge, so will new types of data. The ACCC should, on an ongoing basis, review which data sets must be freely accessed by all consumers to ensure that the CDR system remains relevant and equitable. These data sets should be reviewed every three years, at a minimum.

## Recommendations 1, 2, 3 and 4

1. CHOICE supports the ACCC’s proposal to mandate that data sharing must occur via an API.
2. The ACCC should ensure that the provision of payee data to third parties does not negatively impact payees who have not consented to share their data with third parties.
3. Consumers should not be charged to access data that companies hold about them, including transaction data.
  - However, if a fee is charged, the ACCC must ensure that any fee for consumer data access requests be capped at a minimal price to ensure that consumers do not face unnecessary barriers to accessing the CDR system.
4. The ACCC should review which data sets must be freely accessed by all consumers to ensure that the CDR system remains, relevant and equitable.
  - The ACCC should review these data sets every three years, at a minimum.

## Who may take advantage of the CDR?

The CDR has potential to drive improved consumer outcomes, by reducing barriers to switching between products and services. When implemented, the CDR is likely improve consumer

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<sup>5</sup> Treasury Laws Amendment (Consumer Data Right) Bill 2018, Explanatory Materials, p.13

mobility meaning that some consumers will close accounts with old providers when switching to new ones. When a customer terminates their relationship with an institution, such as a bank, they generally can no longer access online account services that the institution provides existing customers. This poses challenges for former customers who wish to gain access to CDR data after they have terminated their relationship with an institution.

CHOICE acknowledges that there may be limitations on institutions' abilities to provide data to former customers, for example due to data being deleted. CHOICE considers prompting customers to access and download their data at the cessation of their relationship with a data holder to be a potential solution to this issue. For example, if account termination is conducted digitally, the consumer should be prompted to easily download their data onto their personal device prior to the closure of their account coming into effect. Consumer testing needs to be conducted in order to find the most effective way to notify consumers about their need to download their data before their access becomes restricted.

## Recommendations 5 & 6

5. The ACCC should develop rules that require CDR data holders to prompt customers to download their CDR data prior to terminating their relationship with the institution.
6. The ACCC should develop rules that require CDR data holders permit former customers to access key data sets for three years after they have terminated their relationship with the institution.

## What data sets are within scope?

The scope of data included in the CDR regime directly impacts on the consumer benefits that will flow from the scheme. The long-term interests of consumers should guide decisions about what data is made available. There are also differences between sectors, which must be acknowledged, and the Rules must be tailored accordingly. For example, transaction data in the banking sector will vary in comparison with transaction data in the energy sector - how the data is collected, shared and analysed will differ. This has implications for the derived data that can be generated within the CDR Regime, and it is crucial that the CDR Rules Framework provides tailored protections for consumers in each sector. The timeline for the ongoing development of the CDR Rules Framework is unclear, and opportunities for future consultation have not yet been scheduled. It is vital that there are opportunities for consultation on the Rules Framework as it is adapted for the needs of other sectors.



As noted in CHOICE's submission to the Treasury on the *Treasury Laws Amendment (Consumer Data Right) Bill 2018*, CHOICE believes that Treasury should develop a set of guiding principles for determining relevant data sets and how they will be delivered to consumers. These principles should provide guidance on the types of data that data holders will be obliged to provide, and address overarching concerns to ensure that business act in the long-term best interests of consumers.

These principles would assist the ACCC to make decisions that determine which data is provided to consumers must be made with a clear vision in mind, and one that is consistent across the CDR system. These decisions cannot be ad-hoc, and should be driven by a set of principles that ensure that the design of the CDR across each sector is consistent. In the absence of a principles-based approach, CHOICE supports the ACCC's intention to adopt the recommendations of the Open Banking review concerning the scope of customer data, transaction data and product data.<sup>6</sup> CHOICE believes that at a minimum, consumers should be able to request and use customer-provided data that is kept in digital form, including historical data, for the period that data holders are required to keep it. Consumers must also be able to request and use usage data, including transaction data, which is generated as a result of a customer's use of a product or service.

It is also vital for consumers to be able to access detailed product data, including information on price, fees, rates and charges that accurately reflect the product that they are have or are paying for. For example, a consumer may have a mortgage contract with a publicly advertised interest rate of 5%, but may in fact access a discounted rate of 4.5% that was negotiated on an individual basis. If the customer is provided with generic product data that reflects the advertised interest rate of 5%, this information will be incorrect and reduces the quality of advice or information that a third party would be able to provide. This would in turn limit the consumer's ability to accurately compare products and services.

In the energy sector, the provision of tariff product information has the potential to help consumers compare energy data, and make better and more informed choices about energy products and services. HoustonKemp was engaged by the Council of Australian Governments (COAG) to develop a series of recommendations for how the CDR should function in the energy sector, and concluded in their report *Facilitating access to consumer energy data* that tariff product and pricing information would be too costly to provide.<sup>7</sup> Tariff data is currently collected,<sup>8</sup> but may not be made available to consumers if this recommendation is adopted. CHOICE strongly disagrees with this approach. Any short-term cost to business in reworking systems to

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<sup>6</sup>Ibid. p.17

<sup>7</sup> Houston Kemp (2018), [Facilitating Access to Consumer Energy Data](#), Commissioned by COAG Energy Council, Canberra. p.20

<sup>8</sup> Ibid. p.17

provide this information must be balanced against the long-term gains that would be delivered to consumers. At a minimum, consumers should be able to expect that they can receive information about the price they are paying for a service.

The ACCC must ensure that appropriate protections are put in place to prevent businesses from using derived data to harm consumers. In order for the CDR regime to provide appropriate consumer protections there need to be clear restrictions on the use of certain types of derived data. Data that has been anonymised can be re-identified by overlaying external datasets. Without appropriate protections, this process poses a risk to consumers who may be reidentified and discriminated against by businesses. There needs to be consideration given to higher-risk scenarios. For example, a financial services application owned by a lending company might analyse CDR data to generate a derived data set that would identify a consumer as part of a cohort of low-income earners who are likely to be in a tough financial situation and susceptible to high-cost credit offers. The derived data generated from a consumer's financial records may play a role in them being marketed harmful products such as payday loans. There is a risk that CDR data sets may be combined with purchased data sets from commercial marketing agencies, increasing information asymmetry and predatory marketing, which needs to be addressed.

The European Union's General Data Protection Regulation (GDPR) defines the concept of "anonymous data" as data that is impossible to reidentify.<sup>9</sup> By contrast, "pseudonymised data" is defined as "the processing of personal data in such a way that the data can no longer be attributed to a specific data subject without the use of additional information."<sup>10</sup> The GDPR will permit data recipients to use pseudonymised and anonymised data for purposes beyond which it was collected, so long as it is not reasonably likely that this data could be used to re-identify a person. Consumer data rules made by the ACCC should provide clarity around the use of derived data, and ensure that derived data can only be used for the purposes that a customer consents to, and that it can only be used by third parties if it is not reasonably likely it could be used to re-identify a person.

It is important to note that obtaining consumer consent will not necessarily, on its own, protect consumers from harm. The ACCC is proposing to make rules to require that an accredited data recipient 'must disclose, at the time of seeking the consumer's consent, the uses to which the data will be put', and must do so 'unambiguously.'<sup>11</sup> CHOICE is concerned that unless they are explicitly prevented from harming consumers, companies efforts to discriminate against consumers or cohorts could be masked in the disclosure process. If a business indicated that they were using consumer data to 'tailor financial products according to your usage patterns',

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<sup>9</sup> *General Data Protection Regulation*, European Parliament, Recital 26.

<sup>10</sup> *Ibid.*

<sup>11</sup> ACCC (2018), [ACCC Consultation on Rules Framework](#), Canberra, pg.37.

this broad disclosure could trick a customer into consenting to share their data with a business that would unfairly discriminate against them, unless this was explicitly prevented. A clear disclosure regime that lets people know how their data will be used is important, but not enough. Telling individuals how data is used will not stop unscrupulous practices. The system should prevent poor practices before they emerge.

The ACCC needs to explore the notion of reciprocity in greater detail. The Open Banking review concluded that:

‘any non-ADI entity that participates in Open Banking as a recipient of data should also be obliged to provide *equivalent* data in response to a direction from a customer. Equivalent data would consist of: data received from another participant in Open Banking; any customer-provided data (subject to the exclusions discussed above); data relating to the lending of money on credit; and data relating to the payment of monies to which they are either a party or that they are facilitating.’<sup>12</sup>

While the notion of reciprocity may allow ADIs to analyse new data in order to develop and provide new products and services for their customers, there is a risk that access to new data may result in unfair price discrimination practices that may see certain cohorts of consumers excluded from access to products and services. An example may be if a consumer shared CDR banking data with an accredited third party that analysed a consumer’s data. This third party may also provide payday lending services that the customer has previously used, providing payments for these services through another bank. The data that accredited third parties hold about consumers may include details such as their education level, or payment history. This data could be used by institutions to unfairly discriminate against consumers by making causal inferences, and excluding customers from access to certain products or services.

The ACCC has proposed to take steps to prevent the misuse of data by requiring ‘that an accredited data recipient must disclose, at the time of seeking the consumer’s consent, the uses to which the data will be put’ and that uses will be stated ‘unambiguously, such that consumers are aware of the actual uses to which the data will be put; statements such as ‘data may be used for research purposes’ will not be sufficient.’<sup>13</sup> While improved disclosure practices may make it harder for financial institutions to discriminate against consumers, CHOICE is concerned that this will not actually stop institutions from harming consumers on the basis of shared CDR data, unless appropriate legislation is in place to prevent them from doing so.

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<sup>12</sup> Treasury (2017), [Review into open banking: giving customers choice, convenience, confidence, Canberra](#), pg.44

<sup>13</sup> ACCC (2018), [ACCC Consultation on Rules Framework](#), Canberra, pg.37

## Recommendations 7, 8 and 9

7. CHOICE supports the ACCC's intention to adopt the recommendations of the Open Banking review concerning the scope of customer data, transaction data and product data.<sup>14</sup>
8. The ACCC should make rules to ensure that data holders provide detailed product information that adequately reflects the specific product that the consumer is accessing. This needs to incorporate all rates, fees, charges, and discounts that the consumer has access to, as well as dates indicating the commencement and cessation of customers' benefit periods..
9. The ACCC should develop a rule that prevents businesses from using CDR data to discriminate against consumers in ways that would leave vulnerable groups unfairly disadvantaged.

## Accreditation

Accreditation of data recipients will be crucial to the design and implementation of a successful CDR rollout. CHOICE supports the ACCC's proposal to make rules that the Data Recipient Accreditor grant accreditation to an applicant if it is satisfied that:

- 'the applicant is a 'fit and proper' person to receive CDR data
- the applicant has appropriate and proportionate systems, resources and procedures in place to comply with the legislation the rules and the standards including in relation to information and security
- the applicant's internal dispute resolution processes meet the requirements specified in the rules and the applicant is a member of an external dispute resolution body recognised by the ACCC
- 'the applicant holds appropriate insurance.'<sup>15</sup>

The ACCC has indicated support for the development of lower tiers of accreditation.<sup>16</sup> A tiered accreditation system is designed to segment accreditation processes according to varying levels

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<sup>14</sup> ACCC (2018), [ACCC Consultation on Rules Framework](#), Canberra, p.18

<sup>15</sup> Ibid. pg.22

<sup>16</sup> Ibid. pg.22

of risk and would require certain types of accredited entities to meet higher standards than others.

There is a risk that a tiered system of accreditation may be hard to navigate for consumers, who will have to bear the burden of differentiating between various tiers of accreditation to understand which types of data certain providers can access. Further, consumers will be faced with the challenge of understanding different tiers of accreditation that vary between sectors unless efforts are made to ensure these are consistent. It is important to simplify the accreditation process as much as possible to ensure that the CDR system is easily accessible for consumers, while still ensuring a high level of protection.

The ACCC has proposed to develop rules around accreditation status disclosure.<sup>17</sup> CHOICE supports the requirement for accredited entities to disclose their accreditation status, but suggests that the ACCC provide more explicit requirements for the wording that accredited data recipients must use. This wording must be comprehension tested to ensure that consumers are adequately able to identify an accredited data recipient. In the case of a tiered accreditation system, CHOICE considers that this message may need to include consumer-facing details about the tier of accreditation for which the entity has been approved, and clearly list the limitations of this tier - for example, explicitly stating that the data recipient cannot access transaction data.

## Recommendations 10 and 11

10. CHOICE supports the criteria that the ACCC proposes to use in order to determine whether an applicant is to be granted accreditation as a data recipient under the CDR.
11. CHOICE supports the requirement for accredited entities to disclose their accreditation status, but the ACCC should provide more explicit requirements for the inclusion of comprehension-tested wording that accredited data recipients must use.

## Consent

Consumer consent must be at the core of a successful CDR regime. CHOICE supports the ACCC's proposal to make rules to give effect to the below principles:

- 'Consent should be freely given by the consumers
- a consumer's consent should be express

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<sup>17</sup> Ibid. pg.27

- consumer consent should be informed
- the consent obtained should be specific as to the purpose of sharing data, that is, the uses to which the data will be put
- consent should be time limited
- consent should be able to be easily withdrawn with near immediate effect<sup>18</sup>

Accredited data recipients must obtain consumers' consent prior to receiving any CDR data. CHOICE strongly supports the ACCC's proposal to ensure that 'accredited data recipients cannot make consent to share data a precondition to obtaining other services not related to, or dependent on, the sharing of CDR data.'<sup>19</sup> This is necessary to ensure that consent is freely given, and will help to ensure that an individual has a genuine opportunity to provide or withhold consent. CHOICE also supports the ACCC's proposal to 'make a rule stating that consent should be unbundled from other directions, permissions, consents and agreements.'<sup>20</sup> This will help consumers make informed decisions about their data, and facilitate a safer, more transparent data-sharing environment.

CHOICE is concerned about the way in which consent will be collected. Consumer consent will be detailed, requiring consumers to understand multiple components of a very complex process. Extensive consumer comprehension testing should be used to determine how third parties should gain consumers' consent. The ACCC supports this, and has proposed to make rules that require, as part of the standards-setting process, consumer comprehension testing of the consent process.<sup>21</sup>

The ACCC has indicated that under the rules, third parties will not have to rely on statutory wording in order to collect consent. If statutory wording is not used, businesses may be required to undertake their own comprehension testing in order to ensure that their process for collecting consent is effective. There are benefits to this - businesses have the opportunity to go above the constraints of statutory wording and integrate language that is simple, accessible, and contextually appropriate. However, if every third party uses custom wording to obtain consent, it could be difficult to monitor whether third parties are compliant with ACCC rules. If third parties obtain consent using individual wording, this wording needs to be captured through mandatory record-keeping processes that are open to audit as needed. If a consumer consents to use of their data, they must be able to access a copy of the exact wording that was presented to them when they agreed to participate in the CDR process. This will be especially vital if the consumer chooses to raise a dispute relating to consent.

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<sup>18</sup> Ibid. p.34

<sup>19</sup> Ibid. p.35

<sup>20</sup> Ibid. p.35

<sup>21</sup> Ibid. p.36

CHOICE recommends that the ACCC adopt a suggestion from the Open Banking Review, that banks ‘could notify customers of a change in the terms and conditions of joint bank accounts or allow customers to self-select whether they wish to confirm that the authorisation extends to data.’<sup>22</sup> This would mean that account holders of joint accounts would need to indicate that they understand that other account holders would be able to consent to the sharing of data from the joint account. Presently, the ACCC is proposing to make rules to the effect that where consumers ‘with a joint account hold individual authority to transact on that account (that is, they do not require the consent of the other joint account holder(s) to transact), they will be able to apply for the CDR data in their joint accounts.’<sup>23</sup> If the ACCC chooses to grant individuals with an authority to transact the ability to share data from a joint account, CHOICE recommends that all customers that are joint account holders are informed and educated that the level of authorisation required to make transactions on a joint account could also enable transfers of data within the CDR regime. The ACCC must make rules to ensure that all joint account holders are notified when their data is shared as part of the CDR regime. These account holders must be able to intervene, and prevent data from being shared.

## Recommendations 12, 13, 14, 15 and 16

12. CHOICE supports the ACCC’s proposal to make rules requiring consumer consent to be freely and voluntarily given, express, informed, specific as to purpose, time limited and easily withdrawn.
13. CHOICE supports the ACCC’s proposal to make a rule stating that CDR consent should be unbundled from other directions, permissions, other consents and agreements.
14. The ACCC should implement record-keeping rules for data holders to ensure that the exact wording that a business presents to consumers when they agree to participate in the CDR process is documented.
15. The ACCC should require that all banks require customers with joint accounts to self-select that they are comfortable with all account holders to individually authorise data transfer under the CDR.
16. The ACCC should make rules to ensure that owners of shared accounts are notified when their data is being shared, and are able to quickly and easily opt out of data transfers.

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<sup>22</sup> Treasury (2017), [Review into open banking: giving customers choice, convenience, confidence, Canberra](#), pg.62.

<sup>23</sup> ACCC (2018), [ACCC Consultation on Rules Framework](#), Canberra, p.33

## Authorisation

Consent should be time limited, not given in perpetuity. The ACCC has proposed ‘to make a rule that would limit the period of authorisation provided to data holders to 90 days.’<sup>24</sup> CHOICE supports the ACCC’s intention, but believes that the 90 day period may be too short, particularly because services have three-month billing cycles. For example, a typical energy billing cycle may mean that a customer receives their bill once every three months.

If consent is revoked after a 90 day period, it may be cumbersome and confusing for consumers to keep providing it to a data recipient every time they receive a new bill. For this reason, CHOICE recommends that the ACCC introduce longer consent periods that will be better suited to services that analyse consumers’ data over time, for example personal finance software applications. A 12 month period may be suitable for this purpose, and help capture changes in consumer behaviour over a period of time that is long enough to capture new trends, beyond those that are contained in historical CDR data at the time that a relationship with an accredited data recipient is established.

CHOICE supports the ACCC’s proposal to make rules to the effect ‘that data holders must clearly communicate to consumers what they are authorising the data holder to do.’<sup>25</sup> The ACCC is of the view that requiring data holders to provide a range of information as part of the authorisation process will help to ensure that consumer consent is express and informed. The ACCC also intends to make rules that will ensure that authorisation standards meet certain requirements, are subject to consumer testing, and consideration by the Data Standard’s Body’s user experience consultative group. CHOICE supports this approach, and recommends that consumer comprehension of data sharing authorisation be evaluated regularly.

The ACCC has proposed to make rules that will require all data holders to have a system in place which allows consumers to readily manage their authorisations. CHOICE supports the proposal. It is crucial that this consumer dashboard provides recordings of consumers’ current and historic authorisations to share data. CHOICE recommends that the ACCC’s rules mandate that data holders provide consumers with alternative means of accessing this information. Specifically, it is important that data holders cater to consumers who have difficulties accessing this information online.

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<sup>24</sup> Ibid. pg.37

<sup>25</sup> Ibid. pg.42.



## Recommendations 17, 18, 19 and 20

17. The ACCC should introduce a 12 month authorisation period.
18. CHOICE supports the ACCC's proposal to make rules that will require all data holders, like accredited data recipients, to have a system in place which allows consumers to manage their authorisations easily.
19. CHOICE supports the ACCC's proposal to make rules that will stipulate what data holders are required to communicate to consumers as part of the authorisation process. CHOICE supports this being consumer tested, with consumer comprehension regularly evaluated.
20. The ACCC should make rules to ensure that data holders provide consumers with alternative means of accessing recordings of consumers' current and historic authorisations to share data if consumers cannot access, or choose not to access the consumer dashboard.