



Australian Government
The Treasury

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CONSUMER DATA RIGHT

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Consumer Data Right Summary

- The Government will introduce a Consumer Data Right as part of its commitment to giving Australians greater control over their data.
- Australians will have greatly improved access to their own data in a usable form and be able to direct its secure transfer to trusted third parties.
- Australians will also have better access to data on key goods and services on offer to them.
- Both individual and business customers will be able to exercise the right in respect of data relating to them.
- The Consumer Data Right will commence in the banking sector (where it is called 'Open Banking'), followed by the energy and telecommunication sectors. The right will then be rolled out economy-wide on a sector-by-sector basis.
- Data made available under Open Banking will be provided without charge.
- Improved consumer control over their own data will support the development of better and more convenient products and services, customised to individuals' needs.
- Better price comparison services, which consider consumers' actual usage, will help consumers to save money by securing better banking, electricity and internet service deals.
- Improved competition and data-driven innovation will support economic growth and create new high value jobs in Australia.
- High levels of privacy protection and robust information security will be a core feature of the system.
- Only accredited trusted service providers will be allowed access to data.
- The Government has provided funding of \$45 million over four years to ensure that the Consumer Data Right will be backed by well-funded regulators with strong enforcement powers.
- Implementation of the Consumer Data Right will be informed by the findings of the Report of the independent Review into Open Banking in Australia.
- The Government has agreed to the recommendations of the Open Banking Review on the design of the Consumer Data Right and how it will be applied to banking, with a phased implementation from July 2019.
- The Government will consult publicly on the legislative design of the Consumer Data Right before it is introduced into Parliament.

If you have any queries or comments regarding either the Consumer Data Right or the Open Banking Review, please contact Treasury at data@treasury.gov.au.

The Consumer Data Right

The Consumer Data Right will give consumers the right to safely access certain data about them held by businesses. They will also be able to direct that this information be transferred to accredited, trusted third parties of their choice.

The right will allow the consumer to access data about themselves in a readily usable form and a convenient and timely manner. It will also allow consumers better access to information on the products available to them.

Both individual and business customers will be entitled to the Consumer Data Right.

The right will only apply in relation to specified data sets and specified classes of data holders.

The Consumer Data Right will be implemented according to four key principles:

- The Consumer Data Right should be **consumer focussed**. It should be for the consumer, be about the consumer, and be seen from the consumer's perspective.
- The Consumer Data Right should **encourage competition**. It should seek to increase competition for products and services available to consumers so that consumers can make better choices.
- The Consumer Data Right should **create opportunities**. It should provide a framework from which new ideas and business can emerge and grow, establishing a vibrant and creative data sector that supports better services enhanced by personalised data.
- The Consumer Data Right should be **efficient and fair**. It should be implemented with security and privacy in mind, so that it is sustainable and fair, without being more complex or costly than needed.

The right will not require a business to hold consumer data that they would not otherwise hold, other than the keeping of records in relation to a consumers' use of the right.

Open Banking

Open Banking is the application of the Consumer Data Right in the banking sector.

In the 2017-18 Budget the Treasurer announced that Open Banking will be introduced in Australia and commissioned an Open Banking Review to make recommendations to the Government on the most appropriate model and the best approach to implement it. The Review was led by Mr Scott Farrell, a senior partner at King & Wood Mallesons, with more than 20 years' experience in financial markets and financial systems law. Mr Farrell is a member of the Government's FinTech Advisory Group.

The Open Banking Review made recommendations in relation to the legal and regulatory arrangements for the economy-wide Consumer Data Right; and more specifically how it should be applied to banking data. The Government has accepted the recommendations of the Review, with a phased implementation from July 2019.

The Open Banking Review made recommendations regarding both the general regulatory framework for the Consumer Data Right (largely contained in Chapter Two of the report) and separately how this would apply to the banking sector. Non-banking sectors should not assume all of the

recommendations for how it will apply to banking will be adopted for other sectors. For example, rules regarding how consumer identities are authenticated might differ between sectors.

In other countries, Open Banking may also refer to a right to authorise other parties to initiate transactions on consumers' bank accounts (write access). The Consumer Data Right recommended in the Open Banking Review only relates to access to data (read access) – although the Open Banking Review raises the option of an extension of the right in the future.

Open Banking is called 'Open' Banking because it opens up "read access" (and in the UK, "write access") to data recipients in accordance with directions of a consumer. It also uses standards that are developed and maintained collaboratively and transparently and are openly licensed for anyone to access and use.

Open Banking is not the same as Open Data. Open Data refers to data that is accessible to anyone, published under a licence that allows people to use, share and modify it for any purpose. In contrast, Open Banking only allows access to data when a consumer has authorised that access.

The benefits from the Consumer Data Right

The Consumer Data Right will improve consumer choice and convenience by allowing data to be safely shared with accredited, trusted recipients, such as comparison websites. An improved ability to compare will increase a consumer's ability to either negotiate better deals with their current providers or switch products. Consumers will obtain better value for money and competition and innovation in participating sectors will increase.



Over the longer term, improving the control, choice, convenience and confidence of consumers will promote a consumer-centric data sector creating greater value for consumers.

The Consumer Data Right will improve the flow of information in the economy, encouraging the development of new products and applications that reach more consumers and are better tailored to their needs.

The availability of these goods and services to business customers will support innovation and cost reduction in the creation and delivery of the goods and services they in turn provide to others.

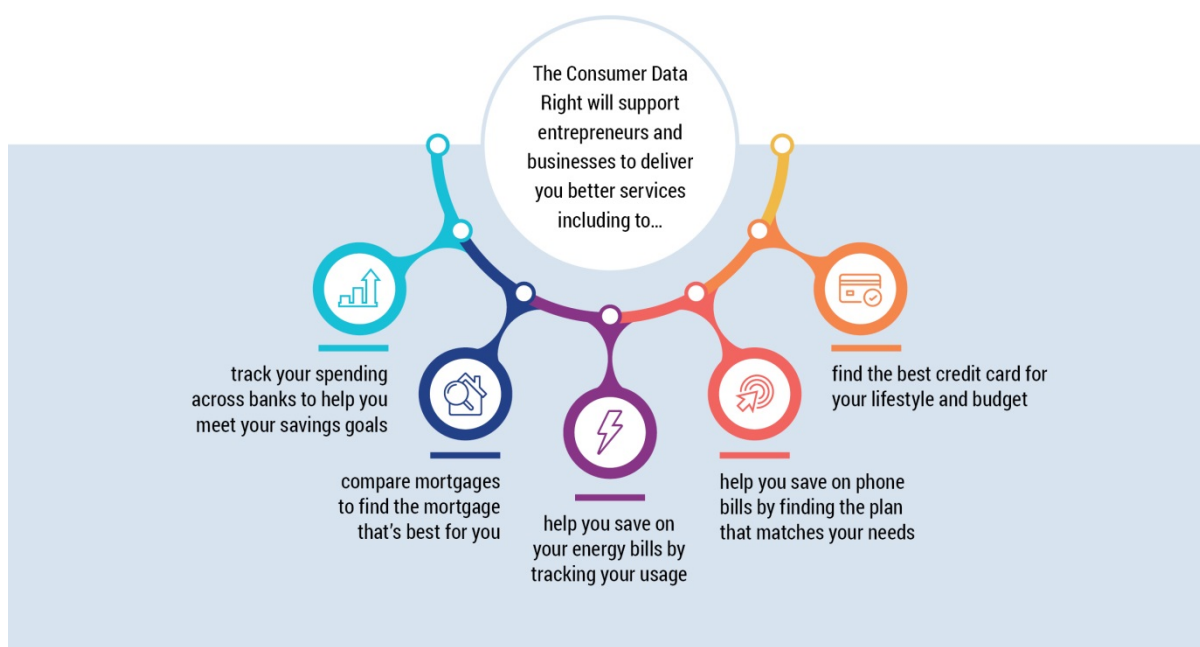
The Consumer Data Right should therefore support data driven economic growth and create new high value jobs in Australia.

Examples of how consumers may benefit

Consumers should benefit from improvements in existing products and services as well as completely new ones. Possible examples may include:

- Comparison tools for credit cards and mortgages, with product recommendations tailored to consumers' actual spending and repayment patterns;
- Comparison tools to assist small businesses to identify better business lending products, taking into account historical borrowing needs;
- Budgeting tools that show consumers all their financial products on one screen and help them better manage their finances by providing insights into current spending habits;

- Services that use small businesses transaction data to provide insights or meet compliance obligations.
- Analysis tools that look at a household’s past energy use to help them choose a better energy plan;
- Analysis tools that use the level and timing of a household’s energy usage to help them to determine the net benefits of investing in solar power and the size and type of system that would best suit them; or
- Comparison tools that help consumers locate the best mobile phone and internet service provider deal for them, based on their actual mobile phone and internet data usage.



Consumers who can exercise the right

All customers (individuals; or small, medium or large businesses) will be entitled to exercise the right in relation to the classes of data covered by the right.

This differs from the original recommendations of the Productivity Commission inquiry into *Data Availability and Use*, which recommended that only individuals and small and medium-sized businesses be entitled to the right.

The Consumer Data Right therefore benefits some customers who may not be considered ‘consumers’ under other laws.

Data covered by the Consumer Data Right

The Consumer Data Right will be applied sector-by-sector, following analysis of the merits of applying the right to different classes of data and data holder (see further detail under *Using the*

Consumer Data Right). The Government has announced the first three sectors to which the right will apply – banking, energy and telecommunications. Further sectors will follow over time.

For the banking sector this analysis was conducted by the Open Banking Review, and the Government has accepted its recommendations regarding the data and entities it would apply to. All entities holding banking licences (authorised deposit-taking institutions), other than foreign bank branches, will be subject to the right. The datasets that the right will apply to are based on product type, as set out in the table below.

Deposit products	Lending products
Savings accounts	Mortgages
Call accounts	Business finance
Term deposits	Personal loans
Current accounts	Lines of credit (personal)
Cheque accounts	Lines of credit (business)
Debit card accounts	Overdrafts (personal)
Transactions accounts	Overdrafts (business)
Personal basic account	Consumer leases
GST and tax accounts	Credit and charge cards (personal)
Cash management accounts	Credit and charge cards (business)
Farm management deposits	Asset finance (and leases)
Pensioner deeming accounts	
Mortgage offset accounts	
Trust accounts	
Retirement savings accounts	
Foreign currency accounts	

Additionally, the terms of these various products on offer will be made available in machine-readable form. This will support product comparison services.

Consistent with the recommendations of the Open Banking Review, data subject to the right is to be transferred, at the consumer’s direction, without charge.

These data sets will not all be subject to the right at the commencement of the regime. (See below under *Timetable for implementation*)

For the energy sector, an initial analysis of which data sets should be made available is taking place through a Council of Australian Governments Energy Council-initiated consultation process. Data sets currently covered by existing data access rights in the energy sector are very likely to be included, such as retail electricity metering data.

For the telecommunications sector, an analysis of which data sets are potentially available will be undertaken followed by an assessment of which of those data sets should be made available under the right, taking into account the costs, risks and benefits of making each data set available.

Reciprocity

Data may also become subject to the Consumer Data Right through a reciprocity mechanism. This mechanism will provide that those who wish to become accredited and receive designated data at a consumer’s request must be willing to share equivalent data, in response to a consumer’s request.

The exact detail of this mechanism is yet to be settled and will be subject to further consultation.

The enabling legislation for the Consumer Data Right will incorporate a principle of reciprocity, allowing the Australian Competition and Consumer Commission (ACCC) to make rules regarding the

circumstances in which data recipients will be obligated to reciprocate, including rules regarding the timing of when recipients will become subject to reciprocity requirements.

Consumer consent

The Consumer Data Right is a right for consumers to choose to safely share their data with accredited, trusted recipients. It is not a right for businesses to share consumer's data without their consent.

The system will ensure that consent is genuine – that consumers understand what they are consenting to, that consents are clear and unambiguous, and they are not open ended.

There will be no 'implied' consent allowed for data transfers.

Consumers will be able to keep track of consents to share data and will be able to revoke them. Records of consents will themselves be designated data-sets under the Consumer Data Right, opening the possibility of external service providers assisting consumers to keep track of what they have agreed to.

Rigorous consent requirements will apply to both the transfer of data and the subsequent use of data under the system.



Data protection and privacy

Privacy and security are core features of the Consumer Data Right. To protect the privacy of consumers, privacy protections will be strengthened and tailored to adequately reflect the needs of the Consumer Data Right and each sector.

These privacy protections will include:

✓	requirements that data can only be transferred under the Consumer Data Right at the direction of the consumer
✓	requirements for greater transparency and choice so that consumers control how their information will be used
✓	the mandatory accreditation of data recipients
✓	obligations regarding deletion of data
✓	the introduction of transfer, security and data standards via a newly created Data Standards Body (initially Data61)
✓	extension of <i>Privacy Act 1988</i> protections to bind all accredited data recipients, including small to medium sized enterprises
✓	a strong role for the Office of the Australian Information Commissioner (OAIC) in advising on and enforcing privacy protections
✓	a range of avenues for consumers to seek meaningful remedies for breaches, including external dispute resolution and direct rights of action

The legislative framework will establish clear principles of liability to ensure that there is no uncertainty about the rights and liabilities of consumers, data holders or data recipients.

The Government has also provided significant resourcing in the 2018-19 Budget for the ACCC, OAIC and Data Standards Body to ensure a high level of privacy and information security protections. The right will not provide bare 'protections' without the backing of real remedies and enforcement. Total funding provided for all functions (not just privacy and information security functions) for these three bodies is:

\$ millions	2018-19	2019-20	2020-21	2021-22	Total
ACCC	5.2	5.1	4.9	5.0	20.2
OAIC	3.6	3.2	3.0	3.1	12.9
CSIRO-Data61	3.7	2.9	2.5	2.5	11.5
Total:	12.5	11.2	10.4	10.5	44.6

Funding will be ongoing.

Total staff funded for these functions will be:

	2018-19	2019-20	2020-21	2021-22
<i>ACCC staff</i>	19.0	23.0	23.0	23.0
<i>OAIC staff</i>	10.0	15.0	15.0	15.0
<i>CSIRO-Data61 staff</i>	11.4	8.3	6.7	6.7
Total staff	40.4	46.3	44.7	44.7

Safe and controlled use of data

Data will only be transferred to third parties at the direction of the consumer. Separate to the direction to transfer (given to the original data holder), consumers will need to give consent for how the data will be used (given to the data recipient).

Consumers will be free to determine what their data is used for. It is not proposed that consumers will be prohibited from granting consent to any lawful uses.

The Consumer Data Right will specify requirements regarding the consent giving process to ensure that consumers are properly aware of and understand what they are consenting to.

Certain high risk uses may require separate consents to be obtained by the data recipient. It is currently proposed that these uses will be:

- use of the data for marketing;
- on-sale of the data;
- transfers of the data overseas; and
- transfers of the data out of the Consumer Data Right system to a party who is not subject to its enhanced privacy and data security regime.

The system will allow additional use restrictions or regulation to be imposed if this becomes necessary.

So, while consumers will have to take primary responsibility for specifying the uses for their data, they will be given enhanced rights to ensure that they are able to do so.

Breaches of the Consumer Data Right

The OAIC will be available as an initial contact point for consumer and small to medium enterprise (under \$3m annual turnover) complaints regarding breaches of the Consumer Data Right. They will be available to connect complainants to the best complaint handler, whether that is the OAIC itself, another agency or a dispute resolution body, such as the Australian Financial Complaints Authority.

This ‘no wrong door’ approach to complaint handling provides simplicity and convenience for consumers. A consumer’s complaint will not get bounced around between regulators

The OAIC, in conjunction with external dispute resolution arrangements, will be primarily responsible for providing remedies for individuals and small and medium sized businesses and for strategic enforcement in relation to breaches involving privacy.

The ACCC will also have a general strategic enforcement role where there are repeated or serious breaches.

Given that data breaches may occur in the course of activities regulated by other agencies (e.g. consumer credit provision or financial services), other sector specific regulators may be best placed to respond to a given concern.

Consumers will also have standing to directly sue if their rights under the Consumer Data Right have been breached.

Remedies available from regulators where data holders or recipients have breached the Consumer Data Right rules will include infringement notices, civil penalties, compensation orders, enforceable undertakings and de-accreditation of data recipients (or suspensions or imposition of conditions), depending on the circumstances. Injunctions (court orders compelling an entity to do or refrain from doing specified activities) will also be available, including orders for the deletion of data.

Assistance from the OAIC and external dispute resolution schemes will not be available to large business customers. The ACCC-made rules may provide for other dispute resolution arrangements for them. They will, like all consumers under the system, have access to direct rights of action.

Using the Consumer Data Right

Generally, the right will be available as part of a seamless experience with various service providers – but in a way that makes it clear to consumers that they are being asked to exercise the right to transfer data to that service provider.

For example, when visiting a credit card comparison website consumers may be prompted to share their credit card data with the website, to work out which card suits their card usage and repayment behaviour. They will be able to choose specifically what data to share and for what period.

Consumers will also specify exactly what the website is allowed to do with their data. Banks will only be able to share data if the consumer has proved their identity to the bank. The comparison website will need to be accredited and have appropriate levels of privacy and information security protections to handle the consumers’ data.

Accredited data recipients

Consumers will only be able to use the right to direct the transfer of their data to trusted third parties. All data recipients who receive consumer specific data must be accredited.

The Consumer Data Right will also impose obligations on entities to provide access to data on the goods and services they have on offer. For example, comparison websites will be able to access the

terms of all credit cards on offer in machine readable format. Accreditation will not be required to access these data sets.

Accreditation criteria, including privacy and information security requirements, will be set by the ACCC in consultation with the OAIC. Technical standards supporting these requirements will be created (or identified and adopted, potentially with some modification) by the Data Standards Body.

It is proposed that there will be different levels of accreditation to reflect the different risks associated with different data sets and data uses. For example, a third party which intends to hold banking transaction data sets for extended periods is likely to have to meet a higher level of accreditation.

Accreditation processes will recognise existing licensing where these regimes meet the requirements for accreditation. It is anticipated that Authorised Deposit-taking Institution licensing will be able to be recognised.

Breaches of their obligations under the right, or general privacy law, may give rise to the removal, suspension or imposition of conditions on a data recipient's accreditation.

The information technology systems required under the right will block non-accredited entities from accessing data.

Timetable for implementation

The Treasury is currently developing draft enabling legislation for the Consumer Data Right and will be consulting on this draft in the coming months. The draft legislation will reflect the recommendations of chapter two of the report of the Open Banking Review, and some aspects of other chapters as described in this document.

If you have any queries or comments regarding the proposed legislation, please contact Treasury at data@treasury.gov.au.

Open Banking

The Government has set a challenging but realistic timeframe for bringing the benefits of these reforms to consumers.

The Government will phase in Open Banking with the aim that the four major banks will make data available on credit and debit card, deposit and transaction accounts by 1 July 2019 and mortgages by 1 February 2020, including for joint accounts where digital authorisations to transact on the accounts already exist. Consumer data on all products recommended by the Review will be available by 1 July 2020.

All remaining banks will be required to implement Open Banking with an extra 12 months for each of the dates set for the four major banks.

It is intended that data on the terms of banking products will become available at the same time as transaction data in relation to those products.

The ACCC will be responsible for determining the detail of phasing, and will have flexibility to adjust the timing for implementation where necessary.

This will mean consumers will be able to access and transfer their spending information, including deposit and credit account transactions and basic product information, from 1 July 2019.

The ACCC in consultation with the OAIC will develop draft rules for Open Banking. The ACCC will provide details of the consultation processes for the draft rules on its website. If you have any further queries or comments regarding Open Banking rules, or processes for future sectors, please

contact the ACCC at acc-cdr@acc.gov.au. The contact for the OAIC in relation to implementation is enquiries@oaic.gov.au.

The Data Standards Body is beginning development of the Open Banking technical standards. The Advisory Committee for the Data Standards Body will be announced in coming weeks. The Data Standards Body will be undertaking an open standards development process and will publish details of how to participate on the Data61 website soon. If you have any further queries or comments regarding technical standards, please contact Data61 at cdr-data61@csiro.au.

The Government encourages all those who are interested in Open Banking and the Consumer Data Right, including from the energy and telecommunications sectors, to participate in these processes.

Energy

Treasury is working with the Department of the Environment and Energy, within the existing Council of Australian Governments Energy Council (COAG EC) process for facilitating access to consumer energy data, to identify options for the manner and timing for implementing the Consumer Data Right with respect to energy. COAG EC is expected to consider recommendations from this process in August 2018. However, it is clear that the right in energy will include retail electricity metering data as a minimum.

Telecommunications

As the design and implementation of the Consumer Data Right progresses, the ACCC will examine the application of the right to the telecommunications sector. As the Government has already identified that the Consumer Data Right will apply to the telecommunications sector, this process will not involve a full sector assessment. Instead, the ACCC will undertake an analysis of available data sets, considering which specific data sets will be made available with reference to factors including the costs and benefits of making each data set available under the right.

Future sectors

The ACCC will begin assessments of potential future sectors once it has made sufficient progress towards implementation of the first three sectors. The ACCC will in due course provide information on its website regarding consultation processes for assessments of future sectors.

How do I learn more about the Consumer Data Right?

The ACCC and OAIC will be providing ongoing consumer education and information regarding the Consumer Data Right. Consumers can't effectively exercise their rights if they do not understand them.

The timing of the initial education campaign will be set with regard to the July 2019 commencement for the Consumer Data Right.

Data61 has also been provided with funding to work with the service provider eco-system to improve understanding of the technical standards and principles to be applied to receiving and handling data.

Information on how you can provide feedback on the more detailed design of the Consumer Data Right will become available shortly.

If you have any questions about this document, do not hesitate to email data@treasury.gov.au.

The regulatory framework

The history of the Consumer Data Right

The Murray, Harper, Coleman, and Finkel inquiries all recommended that Australia develop a right and standards for consumers to access and transfer their information in a useable format. These recommendations were sector specific.

In addition, in May 2017, the Government received the Productivity Commission's report on their Inquiry into Data Availability and Use. The report included a set of 41 recommendations, including for the creation of a new economy-wide Comprehensive Data Right.

In the 2017-18 Budget the Treasurer announced that Open Banking will be introduced in Australia and commissioned an Open Banking Review to make recommendations to the Government on the most appropriate model and the best approach to implement it.

On 26 November 2017, the Government announced that the Consumer Data Right will be implemented as a measure for consumers to harness their digital data, with its design to be informed by the report of the Open Banking Review.

In February 2018, the report of the Open Banking Review was released by the Treasurer for a six week public consultation. The consultation sought views on the design of the broader Consumer Data Right and how it should be applied in the banking sector.

Further consultations will occur on the text of any legislative proposals, supporting regulations, ACCC made rules and Data Standard Body made technical standards.

Legislation

The Consumer Data Right will be established primarily through amendments to the *Competition and Consumer Act 2010* and the *Privacy Act 1988*. This enabling legislation will:

- set out the role, functions and powers of each of the ACCC, OAIC and Data Standards Body;
- outline the overarching objectives and principles for the Consumer Data Right;
- create a power for the Treasurer to apply the Consumer Data Right to new sectors; and
- enshrine a guaranteed minimum set of privacy protections, which will be built upon in the ACCC rules.

The Treasurer will consult on draft legislation in the coming months.

Regulators

The Consumer Data Right will operate under a multi-regulator model, comprising of the Australian Competition and Consumer Commission (ACCC), the Office of the Australian Information Commissioner (OAIC), and a new Data Standards Body.

Australian Competition and Consumer Commission (ACCC)	Office of the Australian Information Commissioner (OAIC)	Data Standards Body
<p>The ACCC will advise the Treasurer which sectors should be designated.</p> <p>The ACCC will have rule-making responsibilities setting out the required functionality of the right in each sector. In setting rules, the ACCC will consult with the OAIC, the public, and sector specific regulators.</p> <p>The ACCC will set accreditation criteria and processes for data recipients, and manage the accreditation register.</p> <p>The ACCC will certify technical Data Standards as meeting the requirements for the right.</p> <p>The ACCC will take enforcement action in relation to serious or systemic breaches of the Consumer Data Right in line with its enforcement policy.</p>	<p>The OAIC will advise the Treasurer on the privacy impacts of designating a sector.</p> <p>The OAIC will advise the ACCC on privacy impacts of proposed rules.</p> <p>The OAIC will be involved in standards setting to ensure standards meet privacy protections.</p> <p>The OAIC will have primary responsibility for complaint handling. The OAIC will be the first port of call for consumer complaints.</p> <p>They will handle complaints from individuals and small to medium sized enterprises or direct them as applicable to the relevant external dispute resolution body, ACCC or other regulator.</p>	<p>The Data Standards Body will set technical standards relating to transmission of data, data format and security of data.</p> <p>These standards may be tailored to the designated sector.</p> <p>The standards will be formed in consultation with working groups.</p> <p>This function will be performed by Data61 for three years, during which there will be a review of the arrangement.</p>

The Treasurer has overarching responsibility for the design and implementation of the overall Consumer Data Right framework.

Once the Consumer Data Right is established, the Treasurer will have a direct role in designating new sectors, consenting to ACCC made rules and appointing the Chair of the Data Standards Body.

The Treasurer will work in conjunction with the Attorney-General where the right may impact privacy policy.

The Treasurer will consult with those Ministers who have portfolio responsibility for relevant sectors when carrying out the sector designation function or where rules may have significant policy impacts on a given sector.

Sectoral assessments

Sectoral assessment and designation

The Government has decided that banking will be the first sector the Consumer Data Right will apply to, where it will be known as Open Banking. Open Banking will be followed by application of the Consumer Data Right to the energy and telecommunications sectors.

Future sectors of the economy which will become part of the Consumer Data Right will be identified through sectoral assessments conducted by the ACCC. The ACCC may initiate a sectoral assessment on its own initiative or at the request of the Treasurer.

Following a sectoral assessment, the ACCC will advise the Treasurer on whether to designate a sector. The OAIC will aid the ACCC in its assessment and will also advise the Treasurer regarding the privacy impacts of designating a sector.

The Treasurer will then determine whether to designate a sector. Under that process, the Treasurer will determine, on advice from the ACCC and OAIC, whether the benefits of designating a sector outweigh the costs. This would involve consideration of:

- likely impacts upon consumers;
- likely impacts upon relevant markets, including upon market efficiency, integrity and safety;
- likely impacts upon privacy for individuals and confidentiality for businesses;
- likely regulatory impact of consumer data rules; and
- any other relevant matters.

In particular, in considering a designation, the Treasurer would have regard to the promotion of competition and data driven innovation in the Australian economy.

A 'sector' designation is more specifically a designation of the classes of entity and data in relation to which the right will apply; and may not align with what is traditionally considered an industry sector.

The enabling legislation will set out these processes and the criteria which the Treasurer must consider when making a designation.

Rules

The ACCC will be given the power to make rules determining the rights and obligations of participants under the Consumer Data Right in a given sector.

The rules will complement the principle-based legislative provisions and specify what needs to be achieved in each sector, in terms of processes and outcomes.

Rules will be developed by the ACCC in consultation with the OAIC. The process of developing rules will include public consultation, including with relevant regulatory agencies, and final rules will need to be approved by the Treasurer. Once agreed, the ACCC will publish the rules. They will also be subject to disallowance by Parliament.

The rules may impose requirements in relation to a range of issues, including:

- refinement of the coverage of the right in a given sector, within the bounds of the Treasurer's sector designation (i.e affected data sets, the holders and recipients);

- consumer authorisations to transfer data from the original or subsequent data holders (including consumer identification and consent requirements);
- safe and efficient data transfer;
- consumer permissions to use data;
- security and confidentiality protections;
- accreditation requirements for data recipients and accreditation processes;
- alternative dispute resolution;
- breach mitigation and reporting requirements;
- interoperability across sectors and mutual recognition of other data access regimes;
- pricing of data;
- liability of participants;
- obligations to delete data; and
- record keeping.

These rules may be general rules which can apply across sectors or may be sector-specific rules, where the ACCC determines that a deviation from the general rules is needed for a specific sector.

ACCC rules will also set out requirements for data standard setting governance and processes; and the operation of the accreditation register.

The banking data identified by the Open Banking Review will be made available to consumers for free. However, the Consumer Data Right system will have the flexibility to provide for charging for access to data. This flexibility may be required in relation to access to value-added data or where making data available for free would unacceptably impact on incentives to collect and maintain consumer data.

Technical Standards

Technical Standards for the Consumer Data Right will specify how the accredited parties within a sector comply with the requirements of the rules. Standards will be formulated for each sector and will fall into three broad categories: transfer standards, data standards and security standards.

- **Transfer standards** will be designed to enable consistent transfer methods that meet acceptable levels of safety, convenience and efficiency.
- **Data standards** will include specifications for data description and recording. They will be designed to ensure data integrity, accuracy and consistency, clarify ambiguous meanings, minimise redundant data, and document business processes.
- **Security standards** will consist of techniques to protect users of the system, networks, devices, software, processes, information in storage, applications, services and systems.

The standards will be written by a new Data Standards Body. The body will work closely with each sector's regulators and stakeholders to ensure sectoral differences are taken into account in this process, and with privacy and consumer groups to make sure user protections remain at the heart of the standards.

The Data Standards Body

The Data Standards Body will be responsible for setting technical standards for the Consumer Data Right.

The Data Standards Body will incorporate an Advisory Committee as an advisory group to provide input to the content and process for the development of standards, and to support engagement with industry.

The Advisory Committee will include representatives of data holders (such as banks, telecommunications and energy companies), data recipients (such as FinTech firms), and consumer and privacy advocates.

The Data Standards Body will be led by an independent Chair who will provide direction on the development of the standards and be responsible for ensuring appropriate governance, process and stakeholder engagement for the Data Standards Body.

The independent Chair will be responsible for the selection of the Advisory Committee. Membership will adjust as the sector in focus changes over time.

While banking will be the initial sector to which the right applies, standards will not be designed solely with the needs of the banking industry in mind. The Advisory Committee's role will therefore include promoting a whole of economy view in relation to the Consumer Data Right. This will include considering where a consistent approach to standards will best meet the needs of the Australian economy as a whole and where standards need to be tailored to a particular sector.

The body will work highly collaboratively and in an agile approach through working groups and open, online development and consultation processes to enable a range of stakeholders to advise on specific technical issues.

Once complete, standards will be provided to regulators for clearance before being set.

For the first three years of the Consumer Data Right, the Data Standards Body will be hosted by Data61 (a branch of the Commonwealth Scientific and Industrial Research Organisation (CSIRO)).

The Government will be providing funding of \$11.5 million over four years and then ongoing funding to the Data Standards Body to facilitate the development of sectoral standards.

Consumer Data Right Framework

