



14 October 2020

Consumer Data Right Project Team
Commerce, Consumers and Communications
Ministry of Business, Innovation & Employment
P O Box 1473
Wellington 6140

Email: consumerdataright@mbie.govt.nz

To Whom It May Concern,

Submission: Options for establishing a Consumer Data Right in New Zealand

Thank you for the opportunity to provide feedback to your discussion document dated August 2020.

ANZ Bank New Zealand Limited (**ANZ**) welcomes the opportunity to support MBIE as it endeavours to establish a consumer data right (**CDR**) in New Zealand and provide individuals and businesses with greater choice and control over their data.

In particular, ANZ acknowledges MBIE's early thinking throughout the discussion document as it draws out the breadth of challenge and complexities associated with an open data economy. ANZ appreciates there is a significant amount of work ahead, but importantly the New Zealand consumer must be at the heart of all outcomes.

ANZ would like to specifically draw to MBIE's attention to ANZ's high-level CDR principles (Appendix I), which have been formed on the basis that they present a benchmark from which to explore and develop the detailed design of the CDR framework.

ANZ appreciates the discussion document seeks feedback at the infrastructure level and therefore ANZ has not included in-depth detail in this submission. ANZ has been involved in a number of the industry CDR submissions, e.g. Payments NZ, Data Economy Collective, Financial Services Council and the New Zealand Bankers' Association, where in-depth detail is presented.

ANZ recognises the importance of open dialogue and collaboration if we are to achieve the benefits an open data economy. Payments NZ's API Centre, being the lead facilitator across API providers, third parties and community members, has delivered New Zealand's first API standards and continues to mature its partnership/accreditation model. ANZ believes MBIE should leverage the synergies of the API Centre.



As previously discussed ANZ fully supports the opportunity to work-shop the detail with all sector stakeholders, including MBIE and the Government, to ensure the future CDR framework is right sized for New Zealand.

About ANZ

ANZ is the largest financial institution in New Zealand. ANZ offers a full range of financial products and services including a significant range of financial advisory services, personal banking, institutional banking and wealth management services.

ANZ is focused on helping New Zealanders save and stay on top of their money, buy and own homes, start and grow their business, protect their families and possessions and prepare for retirement.

A CDR regime that helps New Zealanders become more successful and improves the financial wellbeing of our consumers is of utmost importance to ANZ. ANZ is mindful the fundamental tenet of banking is trust. We have been trusted to look after our customers' money in NZ since 1840. That money isn't ours, it's our customers'. It's the same with data. We're entrusted to look after the data of our customers. It belongs to them. We take that responsibility very seriously and that informs our thinking around consumer data rights.

Contact for submission

ANZ welcomes the opportunity to discuss our submission directly with MBIE officials. Contact details for ANZ, if required, are:

Brian Bonar 021 277-2232 or Jody Bullen 021 821-444

Once again, we thank MBIE for the opportunity to have input into the options for establishing a Consumer Data Right in New Zealand.

Yours faithfully,

A blue ink signature of Astrud Burgess, consisting of a series of fluid, connected loops.

Astrud Burgess
General Manager, Data and Marketing

A blue ink signature of Mike Bullock, featuring a stylized 'M' and 'B'.

Mike Bullock
Chief Information Officer

Appendix I – ANZ’s high-level principles

ANZ supports an initial principled based approach, which positions the intention of the CDR framework, while also setting guidelines for future legislative development. The principles are primarily outcomes based and sufficiently flexible to allow for industry, Government and consumer collaboration.

An open data economy offers (as-yet unproven) hopes for consumer empowerment coupled with some (soluble) data security risks. Further, there are many different paths that New Zealand could take to implement a CDR framework. Across the dimensions of how consumers could benefit from open data (the use cases), the data sets that should be opened up, mechanisms for transmitting the data and possible regulatory frameworks, there are many permutations to consider.

Because of this, ANZ believes it is important to identify and agree the principles that should guide the policy design. These principles are intended to be the values that help us pick the right permutation for an open data economy in New Zealand.

1. Consumer outcomes must be at the heart of all CDR framework deliberations

ANZ is supportive of an open data economy and committed to an open collaborative approach, which encourages innovation and a framework that delivers materially better outcomes for consumers. The framework should have:

- *Clear objectives with measurable consumer outcomes. This will require careful balancing of CDR opportunities with the complexity of implementation, risk and consumer need. Critical success factors should underpin the next phases.*

The CDR consultation is the start and it will deliver ANZ an enormous opportunity to better understand, serve and attract consumers. We also recognise the regime will mean our competitors will do the same. However, the experience with open banking in the United Kingdom and Australia suggests we shouldn’t expect an avalanche in consumer activity from day one.

2. Open data ecosystems must have the right consumer protections in place.

ANZ believes that consumer education will be a fundamental factor in building trust and subsequent adoption of any data driven services. Education and guidance more broadly, e.g. not only for consumers, but for all CDR stakeholders, will need to be comprehensive. ANZ notes that the size of this task should not be underestimated.

In particular, should data or trust breaches occur there is a very real possibility that the proposed CDR framework, the API Centre, and more broadly New Zealand's financial markets and payments data ecosystems, will not flourish.

To work, consumers need to trust open data and the many functional components that make up the data ecosystem more broadly. A person's bank data can be used to steal their identity and to reveal their preferences, habits and locations. This risk exists today.

However, open data could accelerate this risk through the dissemination of bank data to a broader range of data holders. This risk is surmountable with careful consideration. It will need to be calibrated with the imperative that risk management obligations on data recipients should be reasonable (i.e. no insurmountable barriers to entry).

Therefore, the framework should aim to have:

- *Clearly defined accountabilities, risks and liabilities, throughout the data lifecycle*
- *Consumer representation*
- *A consumer communications plan, including educational guidelines, support, etc.*
- *Consumer protections which leverage the existing Privacy Act foundations, e.g. purpose for data collection, security of transit and storage, disclosure, etc.*
- *A quality disputes resolution scheme. ANZ believes that there would be a range of efficiencies in leveraging existing schemes*
- *A robust consumer consent process, where consumers need to be able to grant their consent to data transfer freely and clearly. In particular, the requirement for consent to the transfer should guard against behavioural biases and heuristics that may see default settings and lengthy disclosures or terms produce consent inappropriately. In addition, consumers should be able to withdraw their consent to the data transfer with immediate effect*
- *Consumers benefiting from a single digital identity that can be used securely everywhere online*
- *The CDR framework must provide the consumer with a seamless experience. This will require a few base components, many mentioned above, while also considering:*
 - *A unified consent management system that works across sectors and stores consumer consents where the consumer can easily access them*
 - *Overall interest of consumers and economic efficiency, we also need "reciprocity". Essentially meaning participants have to contribute to the data pool and not just take from it. However, principles of data reciprocity and data equivalency (both within and across sectors) are complicated and risk unintended consequences. ANZ suggests delaying consideration of these issues until later on in the maturity cycle.*

- *Different types of data carry different levels of risk. Third party levels of permissible access and accreditation requirements could be tiered in proportion to the level of risk. Enhanced data should be out of scope and left in the commercial domain.*

ANZ is gearing up for this new era and we expect the major initial change to be behavioural through greater consumer engagement with financial apps, allowing consumers to track savings, earnings and expenditure across a broader canvas of providers.

ANZ will gain a better understanding of our consumers' financial wellbeing across multiple providers, thus enhancing our responsible banking capabilities, e.g. credit decisioning.

Consumers' rights to their data need to be balanced with a responsibility and expectation to protect consumers, especially vulnerable consumers, at all times.

3. Participation and ecosystem growth is complex

ANZ appreciates it will take time to establish the CDR framework, run accreditation processes, build and implement the systems infrastructures, test and establish interoperability, and then develop new market propositions for the consumer.

ANZ views the development of the market propositions, or use cases, as being critical to growing New Zealand businesses, both small and large. If the use case is appealing to consumers only then will the data ecosystem thrive. Yet ultimately change will be profound and accordingly the framework should have:

- *Collaboration between industry sectors, Government and consumer advocates*
- *A strong alignment across industry initiatives, by identifying and leverage existing core building blocks, e.g. API Centre standards, Digital Identification trust framework, Privacy Act, etc. and create a starting point*
An eye for end-to-end services, and not to be limited by sector, or technical aspects
- *Designated sectors where there are areas likely to have the greatest benefits for consumers and overall economic benefit for New Zealand. These sectors should be formally defined and identified using quantitative economic analysis, using overseas and New Zealand experience to inform any early assumptions*
- *Scope and sequencing should consider alignment to desired outcomes and value*
- *A considered incremental 'right sized' approach for NZ starting with lower risk data-sets, with the aim to bring services to market incrementally*

- *Provides the opportunity for a lower risk, more inclusive and a consumer led approach to bring new services to market faster, through learning and adapting*
- *Allows consumer education and trust to build over time*
- *Early "read" services can be used as the building block ahead of the more complex "write" services that will take longer to build and operationalise. ANZ believes that write access and enduring write consent should be reserved for a time where the ecosystem's framework is mature, and market participants understand shared value relative to implementation effort and consumer risk*
- *The ability to develop an open sector approach that can efficiently scale to support multiple services in parallel*
- *The development of a layered roadmap of market outcomes, consolidated at ecosystem level, will help set realistic expectations and clarity of value. Use cases without value will not attract investment or uptake*
- *An establish view on how to best operationalise the options. ANZ is not tied to a single solution and further foundational work is required. Approaches for consideration include:*
 - *Focus on a single sector and go deep before expanding to a new sector*
 - *Focus on a single sector and go shallow before rolling out to other sectors*
 - *Start sector/economy wide and increase depth overtime*
- *Recognition that principles of data reciprocity and data equivalency (both within and across sectors) are complicated and risk unintended consequences. Delay consideration of these issues until later on in the maturity cycle*
- *Acknowledgement that different types of data carry different levels of risk. Third Party levels of permissible access and accreditation requirements could be tiered in proportion to the level of risk. Enhanced data should be out of scope and left in the commercial domain.*

Observation from overseas indicate that a CDR framework will require significant funding and lead-time. Regulation and technical standards themselves are only part of the equation as other aspects, such as education and value driven use-cases, are critical to delivering new services and supporting consumer uptake.

4. CDR Design

ANZ believes that a sector-wide framework and approach, coupled with digital identity are foundational pillars of an open data economy. These will underpin the success of a New Zealand data driven economy supported by trust, security, and efficiency.

ANZ would like MBIE to consider the principles as the basis for delivering value early, creating a low risk ecosystem, while building a phased, sustainable, balanced and flexible legislative roadmap that best fits New Zealand's culture and heritage. The framework design should consider:

- *The role of Government, e.g. when to lead and when to not*
- *A single CDR regulator, while ensuring regulatory gaps or overlaps are efficiently managed. Collaborate on the creation of rules and regulations to meet desired outcomes*
- *Build sector specific standardised conventions and terminology, while recognising there is also a place for common cross-sector standards (e.g. for street addresses)*
 - *The regulatory framework for data transferors should include data format standards coupled with the compliance mechanism that is intended to be used for economy-wide open data*
 - *The regulatory framework for data recipients should include data security standards that are enforced through a mix of informing consumers, Government oversight and licensing*
 - *The regulatory model should set standards for both data availability and data security. It should also provide for monitoring of initial and ongoing compliance with those standards (noting some standards and solutions may reside outside of the New Zealand jurisdiction, however balancing efficiency, innovation and global best practice, e.g. cloud storage should be encouraged)*
- *Clarity around the liability of data transferors and data recipients. The supporting legislative framework should set out when and how data transferors and data recipients could be liable in law for open data acts. Critically, the framework should clarify that if a data transferor releases or transfers in accordance with a consumer's request, the data transferor then has no liability for any losses of the consumer that arise from the subsequent misuse or loss of the transferred or released data*
 - *Building a common understanding of where accountability resides, where the master records are held, who has decision rights, etc. all form part of what will be a substantive requirement. When overlaid with the development of clear standards and definitions, e.g. what is data, what is derived data, etc.? MBIE should not underestimate the associated complexities, time and resource to develop these critical CDR functional components.*
- *Building a New Zealand CDR risk management framework. While positive outcomes are the intent the framework will need to cope with; service disruptions, outages, data theft, consumer complaints and disputes, cyber security attacks, fraud, etc.*

- *As an economy, we require a 'multi-tiered accreditation framework'. ANZ, like other banks, holds very sensitive data and data recipients who want full access to our consumers' data need to have bank-grade environments to protect consumer data*
 - *Accreditation of third, or fourth parties, may need to be tiered in order to reflect differing product offerings, security standards, consumer consent models, processes, liabilities, risks, regulatory obligations, etc.*
 - *ANZ believes accreditation from the consumer's perspective would add value*
 - *Tiered accreditation should not mean lowering accreditation standards/requirements to allow smaller companies to participate. The better position is to allow limited access to certain types of data. ANZ believes accreditation should be risk based, and not based on the size of company.*

ANZ recognises that data is valuable. To collect it, organise it, store it and protect it requires investment and effort. The insights from data drive modern businesses. While open data can catalyse competition by empowering consumers and fostering innovation, it should not be used to transfer resources from one sector of the economy to another without adding value.

In Summary

The CDR framework should be directed primarily towards helping consumers make better decisions and manage their finances more effectively. Consumers should be the main beneficiaries of its availability.

Perhaps, open data should be used as a pathway towards an open data economy, however ANZ believes that by setting the foundational principles all sectors and all consumers will benefit more broadly

- The consumer must be the focus of the CDR framework
- Market propositions, or value led use cases, must be appealing to the consumer if the New Zealand data ecosystem is to thrive
- The data security risks must be well managed
- Consumer protection and understanding expectations remains paramount
- CDR design is complex and ideally should not create competitive imbalances

ANZ welcomes the opportunity to develop the CDR framework in conjunction with MBIE and all associated stakeholders, be it through workshops or further consultation.