

Submission on discussion document: *Options for establishing a consumer data right in New Zealand*

Your name and organisation

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Responses to discussion document questions

Does New Zealand need a consumer data right?

1 *Are there any additional problems that are preventing greater data portability in New Zealand that have not been identified in this discussion document?*

Below is based on experience in commercialising (sharing data externally) location data at both Qrious and Telstra Australia. I use the word data sharing consistently, which is making it portable through technology or processes. The challenges came in different forms:

- Business seeking commercial certainty before committing to sharing data since its their choice – CDR will help accelerate this
- Data is messy in the business – Most businesses do not have a single source of truth, lack of data governance and technology to support data portability. The same applies for NZ government and commercial business, which I identified in assisting them in forming a data strategy
- Investment – there was no funding allocated to project to share data
- Vision to big – I found that Telco’s vision was just to big for the market, data quality and value did not align. Eventually project had big expectations but did not deliver. Breaking it into small phases would have helped
- Data quality – We also identified that our data did not have the value we expected. E.g. location accuracy which was 100m. This meant we could not deliver to many use cases
- Politics – Probably the biggest issue 😊
- Security and privacy – Business are worried about sharing data can lead to damaging brand if breached. Also, legal and privacy experts are not very clear on what can be done. Risk falls on the business owner.
- Technology – This was a challenge as we weren’t sure if we can use public cloud when sharing data, but more the issue we didn’t have skills or experts to help us define value of sharing data and then aggregate, prepare, store and serve data using technology e.g. API’s or web apps

2 *Do you agree with the potential benefits, costs or risks associated with a consumer data right as outlined in this discussion document? Why/why not?*

I agree with what was outlined

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Are there additional benefits, costs or risks that have not been explored in the above discussion on a consumer data right?

Security – Sharing data enables organisation to verify identity with trustable data. Benefits can be to reduce fraudulent behaviour, data misuse and strengthen cybersecurity in NZ. For example, more open health data will enable us to understand prescription usage to understand patient overuse.

Improving customer experience quality would be additional. More portable data can lead to better service for individuals

Additional risk is around ethical usage – Opening data to trusted party can lead to individual abusing data for commercial gain e.g. behavioural science for marketing to get more customers. The standards need guidance around usage

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What would the costs and benefits be of applying the consumer data right to businesses and other entities, in addition to individuals?

- Better, cleaner, and understandable data within business. Most business don't have a data focus, but this will help them become data driven
- Digital economy – Opening data will lead to more innovation, more start-ups in NZ leading to more competition
- Individual will have a better understand how digital ecosystem use personal data

5

Do you have any comments on the types of data that we propose be included or excluded from a consumer data right (i.e. 'consumer data' and 'product data')?

Included should be

- Location data
- Transactional data but anonymised
- Customer credit scoring
- Health records
- Utility consumption
- Customer acquisition data
- Searching data within NZ e.g. google or bing
- Research data in specific areas

Excluded

- Customer services request data
- CRM data

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What would the costs and benefits be of including both read access and write access in a

consumer data right?

Read access is easier but has a high cost to manage a single place for truth of data. Requires governance and technology to help it scale

Write and read – This is more complex and requires careful planning and assistance with adoption. I've spent \$m in testing opensource technology that didn't fit the need for read / write data lake. This is the scalable solution, if the correct technology and process is applied. Needs to be open with measures in place

Both require classification as data with a level of maturity. High quality and accuracy can lead to very high costs so its needs to be a journey for businesses to make data portable.

What form could a consumer data right take in New Zealand?

7 *Do you have any comments on the outcomes that we are seeking to achieve? Are there any additional outcomes that we should seek to achieve?*

Ethical usage of data and overarching governance of use

8 *Do you have any comments on our proposed criteria for assessing options? Are there any additional factors that should be considered?*

Value – Are the options providing the benefit and are they measurable?

9 *Do you have any comments on the discussion of Option one: Status quo?*

This option relies on businesses to open data, however with NZ being a small economy with limited competition. The intent by business will be slow and commercially driven. This option is only available to entities that have the data and capital to create data portability. The definition of data portability will be customised by sector or creator and can confuse consumers.

10 *Do you have any comments on the discussion of Option two: A sectoral-designation process?*

This option provides an iterative approach to applying CDR across the entire economy. This also protects SMB that cannot afford to implement CDR due to resourcing and revenue challenges with COVID.

Implementation across sectors can be planned approach with varied dates for sector e.g. telco 2021, retail 2022.

Also sectors or businesses with good data practices in places can be targeted first. This will speed up time to benefits realised, but also increase competition quickly.

Consistency in delivery and methodology should be implemented, otherwise it can lead to governance complication leading to higher cost to manage and operate over time.

11 *Do you have any comments on the discussion of Option three: An economy-wide consumer data right?*

With COVID, this option will be a challenge to NZ SMB's due to financial struggles after lock down. This option should be broken down like option 2, so the impact and enablement is gradual.

12 *Do you have any comments on the discussion of Option four: Sector-specific approach?*

This option reminds me of lawful interception requirement in Telco. This option is strict, costly and can only be achieved by certain businesses. This also leads to only business that comply having dominance in market. Fragmentation of data portability could lead to consumers confusion due to each implement is bespoke

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This discussion document outlines four possible options to establish a consumer data right in New Zealand. Are there any other viable options?

No

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Do you have any comments on our initial analysis of the four options against our assessment criteria?

With the economic challenges and SMB's struggling, option 2 enables an iterative approach across designated sectors with an NZ wider legislation in place. Business awareness can lead a focus on managing data and implementing practices within the business. Option 2 should also highlight benefits government can provides in implementing CDR due to size of investment required. Examples are:

- Provides consultancy and guidance to implement CDR
- Tax relief or funding to assist with CDR implementation
- Potential monetisation business model to recover costs

The above reduces the price rise to accommodate CDR investment by business

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Do you agree or disagree with our assessment that Option two is most likely to achieve the best outcome using the assessment criteria?

Yes

How could a consumer data right be designed?

16

Do you agree with the key elements of a data portability regime as outlined in this section? Are there any elements that should be changed, added or removed?

Liability, enforcement– This should include misuse of data beyond its intended purpose

Data Sovereignty – There is Maori data sovereignty, but also have control of data stored in NZ or controlled environment is important to manage legislation

Auditing and governance – There should be governance framework, where an authorised party can audit usage or implementation of CDR to make sure it complies

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Do you have any feedback on our discussion of any of these key elements?

Value – what is potential value each model will bring in a short and long term strategy

18

Are there any areas where you think that more detail should be included in primary legislation?

Intended use or misuse of CDR data e.g. marketing, behavioural science

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How could a consumer data right be designed to protect the interests of vulnerable consumers?

Having education, communication, and website to understand what it provides and what it does not to businesses and consumers. How data is used for sharing. If breached, what consumers can do to highlight misuse of CDR data. The ownership should be on the individual and business together.

If an intermediary platform is used, data lineage should be provided to consumers to help with transparency.

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Do you have any suggestions for considering how Te Tiriti o Waitangi should shape the introduction of a consumer data right in New Zealand?

21

How could a consumer data right be designed to ensure that the needs of disabled people or those with accessibility issues are met?

Have delegated authority of data rights for any one with accessibility issues

22

To what extent should we be considering compatibility with overseas jurisdictions at this stage in the development of a consumer data right in New Zealand?

Having standards and protocols compatible with other overseas jurisdictions will help in the long term. Initially, closer alignment to Australia will enable easier collaboration between us.

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Do you have any comments on where a consumer data right would best sit in legislation?

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Do you have any comments on the arrangements for establishing any new bodies to oversee parts of a consumer data right?

Should have independent body or cooperative to oversee CDR. However a single entity should be accountable for overall governance.

CDR should also leverage NZ resources to maintain IP and independence

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What are the pros or cons of having multiple regulators, or a single regulator, involved in a consumer data right?

Multiple enables speed and efficiency but leads to fragmentation if not governed. Single operator leads to complexity and inflexibility, but easier to govern

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If government decides to establish a consumer data right, do you have any suggestions of how its effectiveness could be measured?

By building a maturity model for CDR. An example:

- Initiate – How well business and consumer understand CDR and its impact to themselves
- Design – Designated sectors are designing and implementing delivery framework to enable CDR in conjunction with an independent body.

- Enable - Designated sectors have implemented elements of CDR, document what they completed and have roadmap with investment to evolve it.
 - Operate – Maintaining compliance with auditing / accreditation complete
 - Innovate – New business forming in designated sectors. Measurable improvement in consumer engagement and productivity
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Other comments