



COVERSHEET

Minister	Hon Dr Duncan Webb	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Consumer Data Right: release of exposure daft Bill	Date to be published	13 July 2023

List of documents that have been proactively released

Date	Title	Author
June 2023	Consumer Data Right: release of exposure daft Bill	Minister of Commerce and Consumer Affairs
19 June 2023	Consumer Data Right: release of exposure daft Bill CAB-23-MIN-0245 Minute	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's and MFAT's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld in order to protect the confidentiality of advice tendered by Ministers of the Crown and officials.



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Consumer Data Right: Release of Exposure Draft Bill

Portfolio Commerce and Consumer Affairs

On 19 June 2023, Cabinet:

- 1 **noted** that in June 2021, the Cabinet Economic Development Committee (DEV) agreed to establish a consumer data right (CDR) legislative framework [DEV-21-MIN-0145];
- 2 **noted** that the CDR will give customers the ability to share data held about them by businesses (data holders) with trusted third parties (accredited recipients) using common standards and interfaces;
- 3 **noted** that the CDR will be implemented gradually, whereby sectors of the economy can be 'designated' through Order in Council on the recommendation of the Minister of Commerce and Consumer Affairs;
- 4 **noted** that in July 2022, DEV:
 - 4.1 agreed that the Commerce Commission be responsible for the CDR enforcement function;
 - 4.2 invited the Minister of Commerce and Consumer Affairs to report back on estimated financial implications by October 2022;
 - 4.3 noted that the release of an exposure draft of the CDR bill will be considered following Cabinet's consideration of the report referred to in paragraph 4.2 above;

[DEV-22-MIN-0151]

CDR enforcement agency

- 5 **noted** that since the July 2022 decisions, weaknesses have been identified in corresponding enforcement arrangements in Australia, and that additional testing has indicated that more streamlined allocation of enforcement functions is needed;
- 6
 - 6.1 **rescinded** the decision referred to in paragraph 4.1; and instead
 - 6.2 **agreed** that the Ministry of Business, Innovation and Employment be responsible for the CDR enforcement function (non-privacy matters);

Regulation making power in exposure draft bill

- 7 **noted** that when, in future, bank payments are brought into the CDR scheme, specific remedies will be needed for non-compliance with a payment request, and similar requirements are likely, in future sectors, to be designated;
- 8 **agreed** that the exposure draft include a power for new regulations to be made which, with appropriate safeguards, prescribe steps that a person must take to avoid, remedy or mitigate any actual or likely adverse effects arising from a contravention of the Customer and Product Data Act, once passed, or secondary legislation (e.g. a duty on a data holder to reimburse a customer for penalty fees or interest they incur as a result of late payment);

Financial implications

- 9 **noted** that the indicative ongoing costs of the CDR to government are approximately Confidential advice to Government a year for banking and continued expansion into new sectors (before any cost recovery via fees or levies);
- 10 **noted** the Customer and Product Data Bill provides for cost recovery through fees and levies;
- 11 **noted** consultation on the exposure draft bill is likely to result in policy, detailed design, or operational changes which may have cost implications, and overall costs will vary depending on the desired approach to the CDR;
- 12 **noted** Confidential advice to Government
- 13 **noted** that Budget funding will be required to progress the CDR beyond passage of primary legislation;

Legislative implications

- 14 **agreed** to give effect to the above decisions through the Customer and Product Data Bill;
- 15 **agreed** to release of the draft Customer and Product Data Bill and accompanying discussion document, attached to the submission under CAB-23-SUB-0245, subject to any minor or technical amendments, for up to a six- week public consultation in June or July 2023;
- 16 **authorised** the Minister for Commerce and Consumer Affairs to approve minor changes and corrections to the accompanying discussion document prior to publication;
- 17 **noted** that summary material will be produced for different audiences (e.g. consumers) based on the discussion document, and officials will be holding online and in-person workshops for a range of audiences;
- 18 **noted** that the Customer and Product Data Bill currently holds a category Confidential advice to Government on the 2023 Legislation Programme;
- 19 **noted** that, as per the Prime Minister's priorities letter for the Commerce and Consumer Affairs portfolio, the Minister of Commerce and Consumer Affairs intends to introduce the Customer and Product Data Bill before the end of 2023.

Diana Hawker
for Secretary of the Cabinet