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Submitted via: consumerdataright@mbie.govt.nz

Consumer Policy Team
Building, Resources and Markets
Ministry of Business, Innovation & Employment

Unlocking value from our customer data Discussion document

Changes in technology should not mean that records of whānau behaviour become a tradable commodity for the advantage of businesses. A robust consumer data right framework can ensure whānau own, and can utilise, their data towards their wellbeing.

We welcome the opportunity to comment on the Ministry of Business, Innovation and Employment *Unlocking value from our customer data Discussion document (Discussion Document)*. FinCap generally supports work towards a consumer data right (CDR). Standardising data so it can be easily transferred between providers, and ensuring whānau are in control of where their data is, can improve outcomes in the sectors where it is used.

However, FinCap often hears of financial exclusion that is linked to businesses using a person's information against them. An example is a person not being able to access a lower cost power contract because they struggled to repay a bill in the past. This is a perverse outcome given those who might be at most risk of being unable to pay should be able to access the lowest prices.

With the above example and many similar experiences FinCap has heard of in mind, we emphasise that CDR alone is just a tool and should not be a substitute to other consumer protections still absent in Aotearoa. Protections are needed to ensure that by default all whānau have guaranteed access to the services they need for their health, wellbeing and social participation at a fair price regardless of their financial position.

Paragraph 128 onwards in the Discussion Document does acknowledge that CDR might not improve access for whānau excluded from some markets. FinCap is concerned that CDR might increase inappropriate price discrimination in such markets. Paragraph 129 in the Discussion Document then goes on to suggest that the community sector be left to resolve this as is the case overseas. We recommend that work is instead done by government to put the onus on industry not to exclude whānau rather than handing community organisations another problem to solve.

Otherwise FinCap also points out that CDR could increase the potential for much more sensitive information inadvertently being made available in a way that enables family violence. Such situations arising where there are joint loans or accounts were discussed in more detail noted in a recent Good Shepherd economic harm service evaluation.¹ FinCap recommends that gaining CDR accreditation includes a requirement to meet minimum standards around an organisation's family violence policies.

¹ See: <https://goodshepherd.org.nz/wp-content/uploads/2023/07/Good-Shepherd-NZ-Economic-Harm-evaluation-July-2023.pdf>

These should include training for staff handling CDR data as to how they would identify, handle and appropriately refer where economic harm and family violence might be associated with a request.

We are also concerned that disclosure of what CDR information is going to be used for will be impractical. It is widely known that not everyone has the bandwidth to read all the terms and conditions we are asked to agree to for participation in the post-modern world. We support there being a default timeframe where consumers opt into their data being used continually.

If not already covered, we also recommend that consent for an organisation to use CDR data, for anything beyond the primary purpose that a whānau approaches the organisation for, be put through a separate and perhaps delayed opt in process. Where there is a tick box alongside the consent for the primary purpose, it is unlikely informed consent to use CDR data for other purposes will be realised.

About FinCap

FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation that in supporting 190 local, free financial mentoring services across Aotearoa. In 2022 these services supported almost 50,000 whānau. We lead the sector in the training and development of financial mentors, the collection and analysis of client data and encourage collaboration between services. We advocate on issues affecting whānau to influence system-level change to reduce the causes of financial hardship.

Please contact senior policy advisor, Jake Lilley on Privacy of natural persons to discuss any aspect of this submission further.

Ngā mihi,

Privacy of natural persons

Ruth Smithers
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FinCap