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Australian Competition and Consumer Commission
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Via email: digitalmonitoring@acc.gov.au

RE: Digital Platform Services Inquiry – Issues Paper: Data Brokers

Thank you for the opportunity to provide feedback to the ACCC's Issues Paper on the data broker industry in Australia to inform the eight interim report of the Digital Platform Services Inquiry.

About FinTech Australia

FinTech Australia is the peak industry body for the Australian fintech sector, representing over 400 fintech companies and startups across Australia. As part of this, we work with a range of businesses in Australia's fintech ecosystem, including fintechs engaging in payments, consumer and SME lending, wealthtech and neobanking, the consumer data right and the crypto, blockchain and Web3 space.

We welcome and support the Digital Platform Services Inquiry's ongoing work to consider competition and consumer issues in relation to data collection, storage, supply, processing and analysis services supplied by data brokers in Australia.

The Issues Paper poses questions about the business practices of data brokers and the products and services they create and supply. It also highlights potential competition and consumer issues, including harms to small businesses, that may arise in the supply of data broker services.

FinTech Australia acknowledges the role data brokers services can play in supporting Australia's flourishing digital economy. These services can be important to many fintech business models and support better, more data rich fintech products for consumers. As consumers generate an ever-increasing amount of data, the use cases for businesses with access to that data also continue to grow.



In this submission, we raise two issues for consideration by the ACCC in preparing the upcoming interim report:

- ensuring consistent regulation of these data broking services and greater alignment with the Consumer Data Right framework where there is overlap in the type of data shared; and
- improving access to ATO data, particularly as it relates to SMEs.

Alignment with the Consumer Data Right framework

We note the definition set out in the Issues Paper is broad, capturing suppliers “who collects personal or other information on persons, and sells this information to, or shares this information with, others”.

Our members seek clarity about the interaction of this data brokers consultation and the CDR regime. The issues paper does not mention the Consumer Data Right despite the definition likely capturing most Accredited Data Recipient (ADR) intermediaries. Consistent with the stated focus of this process, these ADRs are generally businesses that collect information from third-party sources (i.e. data holders) and sell or share that data with other organisations.

ADR intermediaries collect data from banks (or other data holders) aggregates and standardises that data for another party (at a cost to that party) but not the consumer. These intermediaries can then also utilise other services from the data brokers mentioned in the Issues Paper and other third parties to further enrich, validate, standardise or enhance the CDR data.

We are concerned the outcomes of this process may inadvertently impact ADRs which comply with a regime established to address many of the ‘potential harms’ highlighted in the Issues Paper. For example, the issues raised around consumer awareness, explicit consent and opting out of collection and use are resolved by the requirements of the CDR framework.

Through this process, the ACCC should promote the use of consented CDR data where relevant datasets are mandated under the regime. This is an established framework for mitigating the stated risks to be addressed around incomplete/inaccurate data, the misuse of information and the use of misleading terms or inadequate disclosures and consents.



We also support a more level playing field between CDR regulated 'data brokers' and those operating outside the regime. Paid direct data feeds and APIs can allow these brokers to operate outside of the CDR framework and without the significant overheads associated with compliance. This can put accredited CDR intermediaries at a competitive disadvantage and inhibits uptake of CDR, particularly among business consumers. We understand the Government has committed to considering these issues and the similar use of 'screen scraping' later this year.

Access to ATO information

Members have raised the importance of data brokers having access to certain government data sets. In particular, the ATO has generally not engaged in the data broker market and provided consented access to data sets. This has caused both SME and personal lenders and borrowers to instead rely on less efficient manual processing options, even when this data is readily available to tax agents or directly through MyGov.

Access to ATO information is crucial to the credit assessment process for any SME lender and the lack of direct access by data brokers is currently a major pain point. We support the ATO providing a marketplace for giving small businesses easier access to provide their data in a safe, secure, digital way to trusted third parties, including lenders.

For example, information required for assessment and decisioning could include:

- Companies (amounts owing to ATO, update to-date re BAS/PAYG/Super and income/profit declared);
- BAS returns Integrated client account statement / statement of account;
- Individuals (i.e. director income);
- Notice of assessment.

Members also note the ATO has made some data available on ATO tax debt to the credit bureaus but not to the market directly. Fairer access to Single Touch Payroll data from SSP's would also be valuable for bringing more competition into lending (including with forthcoming BNPL reforms) and support income and affordability checking.



The ATO's current approach contrasts with the more progressive [approach taken](#) overseas by New Zealand Inland Revenue (NZIR) as evidenced in their document on tax administration in a digital world.¹ NZIR has implemented a gateway service to onboard external parties, allowing them to integrate their services with NZIR's system for more efficient access to data.

In relation to this gateway service, NZ is proposing a new regulatory framework to expand the categories of external parties to be accepted with corresponding enhancements to the regulatory obligations for these parties. The proposed approach includes:

- Meeting technical and security standards;
- Allowing for consumer consenting to availability of different data types;
- Structuring access by the service being provided, i.e. read, write or amend; and
- Setting obligations for privacy and secure storage.

We encourage consideration of a similar framework in Australia, leveraging the existing Digital Service Provider regime. The Digital Service Provider regime provides a mechanism to facilitate safe and efficient data sharing by the ATO with data brokers. The ATO is a significant lender to small businesses and facilitation of information sharing would allow this debt to be refinanced into the private sector.²

FinTech Australia would also like to draw attention to Recommendation 3.2 of the Statutory Review of the Consumer Data Right, which called for government participation in the CDR to be a priority to ensure consumers benefit from more seamless government interactions and can share their data across a greater range of services. We encourage implementation of this to be considered in concert with this review to provide greater access to ATO and STP data.

¹ Inland Revenue Department , Tax Administration in a Digital World (February 2022)
<<https://www.taxpolicy.ird.govt.nz/-/media/project/ir/tp/publications/2022/2022-ip-tax-administration-in-digital-world/2022-ip-tax-administration-in-digital-world-pdf.pdf>>.

² As of 30 June 2022, there were \$44.8 billion of collectable debts.