



Mr Jason Lange
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
1 National Circuit
BARTON ACT 2600

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Dear Mr Lange

CERTIFICATION OF INDEPENDENT REVIEW: INQUIRY INTO FUTURE DIRECTIONS FOR THE CONSUMER DATA RIGHT

On 23 December 2020, the Government announced the release of the Final Report of the *Inquiry into Future Directions for the Consumer Data Right* (the Inquiry) led by Mr Scott Farrell. The Inquiry made 100 recommendations. [REDACTED]

I am writing to certify that the following attachments have undertaken a process and analysis equivalent to a Regulation Impact Statement (RIS) and meet best practice consistent with the *Australian Government Guide to Regulation*:

- Issues Paper of the *Inquiry into Future Directions for the Consumer Data Right*;
- Final Report of the *Inquiry into Future Directions for the Consumer Data Right*;
- supplementary analysis; and
- the decision map.

I certify that these documents adequately address all seven RIS questions outlined in the *Guide to Regulatory Impact Analysis* for the matters covered by the Inquiry's recommendations, and are submitted to the Office of Best Practice Regulation.

During the course of the Inquiry, including consultation on its Issues Paper and preparation of its Final Report, views of affected stakeholder groups were considered. The Inquiry received 73 submissions with public consultation, and consulted with over 300 representatives from a wide range of interested organisations and groups, including the banking and energy sectors, consumer interest groups, payment systems and service providers, fintechs, mortgage and finance providers, financial service providers and overseas counterparts. Following the release of the Inquiry's Final Report in December 2020, Treasury conducted further targeted and public consultation to inform the Government's response over a six month period (February 2021- August 2021) engaging with 75 stakeholders over the course of 35 consultations and receiving 63 submissions, in addition to hosting two large workshops and receiving ongoing informal feedback on Inquiry proposals via engagement fora.

The scope of the policy problems that the Government’s proposed response seeks to address are the same as the scope of the policy problems addressed in the Inquiry. The proposed Government response (with the exceptions of ‘noted’ and ‘disagree’ responses) is substantially the same as the recommendations of the Inquiry with the benefit of more detailed analysis and feedback addressing particular aspects of implementation.

To address the differences between recommendations 6.9, 6.10 and 6.11 related to reciprocity, and the Government’s proposed ‘disagree’ response to those recommendations, I also certify the attached supplementary analysis. I am satisfied that with this addition, the scope of the recommendations match the Government’s response.

Regulatory Burden Estimate

The Regulatory Burden Estimate relates to the following 11 recommendations (that the Government has agreed or agreed-in-principle to) that entail immediate regulatory benefits or costs for businesses, community organisations and individuals:

- identity verification assessments (Recommendation 5.21);
- inclusion of data (Recommendation 6.14);
- process for introducing voluntary data sets (Recommendation 6.15);
- guidelines for voluntary data sets (Recommendation 6.16);
- maintenance of industry designed standards (Recommendation 6.17);
- Consumer Data Right dictionary (Recommendation 6.19);
- industry recommended and endorsed consents (Recommendation 6.20);
- sharable consent information (Recommendation 6.22); and
- limited action initiation for consent management (Recommendation 6.23).

Some of these 11 recommendations also have deregulatory benefits to businesses and individuals that are unable to be quantified at this point in time and have not been included in the regulatory burden and cost offset estimate table.

I am satisfied that the benefits and costs of all the proposed options for businesses, community organisations and individuals have been clearly analysed in a balanced and objective manner, with the regulatory costs quantified in accordance with the Australian Government’s *Regulatory Burden Measurement* framework and is provided below.

Regulatory burden estimate table				
Average annual regulatory costs (from business as usual)				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	\$15.3m	\$0.0m	\$0.0m	\$15.3m

I note that the implementation of this proposal will increase the regulatory burden. No offset measure has been identified, but Treasury is reviewing whether there are regulatory burden reductions elsewhere in the Mid-Year Economic and Fiscal Outlook process to identify offset measures. Treasury is also seeking to pursue net reductions in compliance costs and will work with affected stakeholders and across Government to identify regulatory burden reductions where appropriate.

Recommendations that have no quantified impacts or for which costings have not been prepared

Regulatory costings have not been prepared for certain Inquiry recommendations for the following reasons:

1. Where Inquiry recommendations have no expected regulatory impacts on stakeholders, regulatory costings are not quantified. I am satisfied that this first tranche of recommendations¹ has no regulatory burden impact. These recommendations broadly relate to maintaining the status quo, suggestions of principles to be applied and processes for regulators to follow, that are directed for the attention of a regulator or private sector body, the manner in which to prioritise Inquiry recommendations, and items for consideration in post-implementation reviews and for engaging with international jurisdictions.
2. Certification of independent reviews has previously been undertaken in respect of a number of matters that are part of the Inquiry and the Government's response. This second tranche of recommendations² effectively restate:
 - recommendations and options from the *Data Availability and Use Productivity Commission Inquiry Report* (8 May 2017);
 - recommendations and options from the *Review into Open Banking Final Report* (December 2017); and
 - ACCC's rules made in the Competition and Consumer (Consumer Data Right) Rules 2019.

Treasury certified the reports' compliance with the regulatory impact requirements and OBPR agreed to regulatory cost estimates on 31 October 2018 (OBPR reference numbers: 22394 and 22280).³ ACCC certified the Rules compliance with the regulatory impact requirements and OBPR agreed to the revised regulatory cost estimate on 5 December 2019 (OBPR reference number: 24996).⁴ No further regulatory burden costings are being undertaken for Inquiry recommendations and Government responses which remain within scope of the previously certified reports and rules.

3. Implementation of the Government's response will take place over a number of years, which will be implemented in a phased manner and informed by continuous industry engagement and feedback processes. The Government will address RIS requirements at a later date for the third tranche of recommendations:
 - requiring further consultation before a final decision;⁵
 - that will be considered as part of formal sector assessment and designations in accordance with section 56AD of the *Competition and Consumer Act 2010*, including framework amendments

¹ First tranche of recommendations: 1.1, 1.2, 4.3, 4.4, 4.7, 4.9, 4.10, 4.14, 4.17, 4.19, 5.2, 5.6, 5.8, 5.13, 5.15, 5.16, 5.19, 6.18, 6.21, 7.7, 7.8, 7.10, 7.11, 8.1, 8.4, 8.8, 8.12, 8.13, 8.14, 9.2, 9.3, 9.4

² Second tranche of recommendations: 3.1, 4.8, 7.2, 7.3, 7.4, 7.5, 8.9, 8.10 and 9.1

³ Certification of 'Open Banking' – Banking Sector Consumer Data Right available at <https://obpr.pmc.gov.au/published-impact-analyses-and-reports/open-banking-banking-sector-consumer-data-right>

⁴ Certification of Consumer Data Right Rules available at <https://obpr.pmc.gov.au/published-impact-analyses-and-reports/consumer-data-right-rules>

⁵ Recommendations: 5.17, 6.1, 6.2, 6.3, 6.4, 6.6, 6.7, 6.8, 6.12, 6.13, 6.14, 7.9, 8.5, 8.6 and 8.7.

made now with unknown or no immediate regulatory impacts until further details are settled;⁶
and

- that will be considered as part of Ministerial rule making and standards making processes, including framework amendments made now with unknown or no immediate regulatory impacts until further details are settled.⁷

I am satisfied that the attached Inquiry, together with the Inquiry's Issues Paper, decision map and supplementary analysis, is consistent with the *Australian Government Guide to Regulatory Impact Analysis*.

Yours sincerely,



Meghan Quinn PSM
Deputy Secretary
Markets Group

⁶ Recommendations: 4.3, 5.1, 5.3, 5.4, 5.5, 5.18, 5.20, 6.24, 7.1 and 7.6.

⁷ Recommendations: 4.1, 4.2, 4.5, 4.6, 4.12, 4.13, 4.14, 4.15, 4.16, 4.18, 4.20, 4.21, 4.22, 4.23, 5.7, 5.8, 5.9, 5.10, 5.11, 5.12, 5.14, 6.5, 8.2, 8.3 and 8.11.