



By email 5pillars@pc.gov.au

To: 5 Pillars Team

Productivity Commission

11 September 2025

Dear 5 Pillars Team

Harnessing Data and Technology - Interim Report

AFMA welcomes the Productivity Commissions' Interim Report on Harnessing Data and Technology.

We are supportive of the changes made to the positioning since the consultation paper and commend the responsiveness to the consultation feedback.

While we note some areas where we would support further change, in general the Interim Report recommends policies that would far better place Australia to benefit from the emerging data and technologies.

Please find our general comments in response to each section and our responses to selected Information Requests following this letter.

We thank you for considering our views on these matters.

Yours sincerely

Damian Jeffree

Head of Financial Markets, Exchanges and Digital

Artificial Intelligence

Draft Recommendation 1.2

AFMA supports the PC's proposal that AI-specific legislation should be a last resort when existing regulatory frameworks cannot be adapted and where technology-neutral regulations are not feasible.

Principles-based regulation is typically technology-neutral and allows Australian businesses to work with the latest technologies in ways that achieve the regulatory outcomes that the Government is after.

AI-specific regulation, like any technology-specific regulation is unlikely to share these benefits, and so should be avoided where possible.

Draft recommendation 1.3

AFMA supports pausing steps to implement mandator guardrails for high-risk AI.

As the PC has correctly noted the proposal to mandate guardrails for 'high-risk AI' as proposed by DISR would subject all include many of the most promising generative AI tools under a burdensome and costly regime that would likely restrict uptake and potentially retard Australia's technological and economic development.

New pathways to expand data access

What should the readiness review process look like? – How should sectors and data holders be identified to undergo the readiness review? – What criteria should be considered in the readiness review?

AFMA welcomes the PC's recognition of the high costs and limited benefits of the CDR.

We note the PC's quoted figures suggest that as of 2024 the industry cost of the scheme was around \$5000 per CDR user excluding Government spending on the scheme.

For smaller sectors with fewer relevant consumers over which to spread the costs, this poor cost benefit ratio may be worse.

Where Government policy supports increased data sharing we therefore would support the Draft recommendation 2.1 to establish lower-cost and more flexible regulatory pathways to expand basic data access for individuals and businesses. These are in line with AFMA's original request at the beginning of the Consumer Data Right process to 'prefer a market-based and industry-led approach to evolving the CDR, as we believe this would offer greater flexibility and lower cost'.

We caution against the proposal that 'Government could act as a technical steward [by] conduct[ing] basic performance testing and issu[ing] penalties for serious breaches'.

While we would support Government facilitation of standards development by industry, data breach issues should be dealt with by existing data requirements and regulations. The technical steward role proposed appears such that it might readily develop into a Consumer Data Right type role.

As we advised prior to the CDR¹ we suggest that an independent cost-benefit analysis be completed on any proposed data sharing to ensure that it will deliver a net benefit to the community.

Which body – either new or existing – should do the assessment?

In regard to which regulator should be utilised in relation to the Consumer Data Right we advised that given the prudential and system stability matters:

APRA and the RBA would ensure that system stability has primacy. While the innovation provided by fintech applications is an important development that should be supported by Government and industry, the scale and consequences of system stability must remain a primary focus. As noted, while the consumer is central to the data right and the policy, the disputes and balances that will have to be reached are between businesses. *The sector regulators are better placed to understand the interactions between the businesses in the wider context of sector developments and the priorities that should be made.* [Emphasis added]

Similarly, where data sharing is determined to be of net benefit we suggest that these should be matters for industry and where regulatory guidance is required, for the relevant sector regulators. Use of sector regulators may also help reduce risks that high-cost CDR-like arrangements might develop.

Privacy Regulation

AFMA supports PC's view that the proposal by the Privacy Act Review to introduce a 'right to erasure' should not be implemented given it would significantly increase the regulatory burden with little if any additional benefit for individuals.

The PC is seeking feedback on implementation issues, including how an alternative compliance pathway should be embedded in the Privacy Act 1988 (Cth).

- **What are the anticipated costs and benefits of implementing an alternative compliance pathway?**
- **How should an alternative compliance pathway be designed – through the creation of a new defence, a safe harbour, deemed-to-comply standards, or something else? Why?**
- **How should requirements for the alternative pathway be framed – as a duty of care, a fiduciary duty, a best interest obligation, or something else? What are the merits and downsides of the different options?**
- **How should those obligations be enforced? Are any other changes needed to enable effective enforcement?**

¹ [R07-18-Open-Banking.pdf](#)

AFMA supports the proposal for implementing an alternative compliance pathway. We note again that these type of principles-based regulations allow for greater flexibility and efficiency for firms.

As AFMA represents a large number of international firms we also note that this type of flexibility will entail increased compatibility with head office jurisdiction privacy regimes that will add further efficiencies for such firms.