



AUSTRALIAN
**FOOD &
GROCERY**
COUNCIL

AFGC SUBMISSION

PRODUCTIVITY COMMISSION INQUIRY
INTO DATA AVAILABILITY AND USE

December 2016

Sustaining Australia

OVERVIEW

The Australian Food and Grocery Council (AFGC) welcomes the Productivity Commission Inquiry into Data Availability and Use as a timely analysis of the potential gains to the Australian economy and to individual consumers from reforms to both the private and public sector approaches to data.

As the peak national representative body for manufacturers and suppliers in the Fast Moving Consumer Goods (FMCG) sector the AFGC has a particular interest in the ways that consumers can use and benefit from access to data, particularly data held about themselves. More specifically, this submission focuses on individual shopper data held by major retailers and the benefits that might flow to consumers if they had the right to require that a copy of their personal data be provided to a nominated third party, including other retailers, e-commerce operators or FMCG manufacturers, as envisaged under the Productivity Commission's recommendations.

The AFGC believes that:

- the provision of this new consumer right is warranted given the value of the personal data and the fact that it is consumers who are effectively providing the data through their purchase decisions;
- consumers would benefit from such a right, in particular from the ability to offer a copy of their personal data to another retailer, e-commerce operator or FMCG manufacturer; and
- it would hasten the growth of new business models for consumer fulfilment in the food and grocery sector.

ABOUT THE AFGC

Sustaining Australia

The Australian Food and Grocery Council (AFGC) is Australia's peak national industry association representing the nearly \$126 billion food, beverage and grocery manufacturing industry.

As Australia's largest manufacturing sector – accounting for one third of total manufacturing – the food and grocery manufacturing industry is a vital contributor to the wealth and health of our nation. The industry's products are consumed by 24 million Australians every day of the year.

The AFGC's aim is for the Australian food, beverage and grocery manufacturing industry to be world-class, sustainable, socially-responsible and competing profitably, both domestically and internationally. The AFGC represents one of the few manufacturing sectors in Australia that continues to grow and has significant potential for even further growth into the future.

We provide a strong, united voice from industry to government, NGOs, retailers/trading partners, industry groups and the media, as well as promoting the industry, for the benefit of members, across the wider community. The AFGC is respected for advancing scientific policies and research to support industry positions. As part of our advocacy role, we advance best practice policy, promote industry's views, and make submissions to governments on the development of policy and regulation affecting members.

For more information, visit www.afgc.org.au

PRODUCTIVITY COMMISSION INQUIRY INTO DATA AVAILABILITY AND USE

GIVING INDIVIDUALS MORE CONTROL OVER THEIR DATA

Under the new Comprehensive Framework proposed in the Productivity Commission Draft Report individual consumers would have a *joint right* shared between the individual and the businesses or agencies that hold the individual's personal data. This new right would extend to include:

“...the ability to direct that a copy of their data be transferred safely from one data holder to another.”

The report notes:

“The capacity for individuals, as consumers, to copy their data between service providers is an integral part of facilitating competition in markets and reducing barriers to market entry.”

The AFGC supports both the recommendation and the rationale and notes the relevance to the food and grocery sector, particularly in relation to individual shopper data held by retailers as part of customer loyalty programs.

Retailer loyalty card programs are extremely popular with Australian consumers, despite offering little in the way of direct discounts or benefits. Currently the two largest retailers have around six million members each in their respective loyalty card programs – Coles Flybuys and Woolworths Rewards. The savings delivered to regular customers are marginal – variously estimated at 0.5% - 1.5%, which is in line with similar supermarket loyalty programs in other developed markets including the USA, UK and Europe.

In return, loyalty card members provide the retailer with access to their complete purchasing behaviour with that retailer, which the retailer is able to use to build detailed personal profiles of shopping habits. Millions of data points are collected by the major retailers each day, and the ability to match transactional data with the demographic profiles afforded by the loyalty program membership has great value.

In early 2012, as the current supermarket wars were intensifying, a Woolworths' spokeswoman summed up the value of loyalty card data:

“In terms of what a retailer derives from the data, it's incredibly rich. We're seeing, for the first time, a pattern to customer decision making. So you see things like the regularity with which customers buy certain products or the degree they substitute one product with another. All this is incredible information to us and it informs our decisions about what we put on the shelves.”

These shopper insights derived from loyalty card data combined with broader transactional data provide the retailer with the ability to undertake detailed analytics on classes of shoppers, the effectiveness of discounts and marketing campaigns, elasticity of demand, category and product trends, efficiency of shelf layout and the impact of new products. In turn, these insights can be marketed back to suppliers and used to inform negotiations with suppliers.

For example, the current Supplier Connect program run by Woolworths, offers data and insight packages to suppliers for which the retailer charges a minimum price of \$135,000 ranging up to 0.7% of the Retail Sales Value of their products. All of this is enabled by the detailed individual data provided through the loyalty program.

In addition to the individual data profiles on members of loyalty programs, retailers are equally able to keep detailed transactional records linked to particular credit or debit cards, even where the owner of the card is not a member of the retailer's loyalty program. Whilst this data set may not be linked to particular demographic details such as age, address, gender and so forth, it is nonetheless valuable data enabling the retailer to track over time such things as product trends, effectiveness of promotions, product associations and new product adoption.

Given the considerable value of the data provided by loyalty program members or linked to particular credit or debit cards, and the marginal or zero direct reward currently provided to the individuals who provide the data, it is reasonable to ask whether there is a mechanism to enable consumers to gain a greater benefit. In effect consumers are donating the data to the retailer through their individual purchase decisions. The recommendation of the Productivity Commission to give consumers a joint right over their individual data is a mechanism that would allow the individual consumer, should they choose to exercise it, a means of extracting greater value from their individual data profile by offering it to other retailers including online retailers.

CONSUMER BENEFIT FROM A JOINT RIGHT OVER INDIVIDUAL DATA

The AFGC is not aware of any supermarket loyalty program that enables individual members to access their complete purchasing details and direct that a copy of their individual data be provided to a third party. The joint right proposed by the Productivity Commission would be a significant new consumer right. As such the costs and benefits would need to be analysed in more detail but the AFGC believes there are clear consumer benefits.

In a dynamic, highly competitive sector like the food and grocery sector, competition for the loyalty of high value shoppers in particular is intensifying. As the data analytics capability of retailers becomes more sophisticated they are beginning to make tailored offers to individual shoppers based on their shopping history and profile. In the future this will become a potent marketing tool to attract and retain shopper loyalty. However if an individual's detailed data is held exclusively by a single retailer the consumer benefit will be restricted. It is only through the creation of a joint right over the data that the consumer benefit is maximised by facilitating access to the data by multiple competitors within the market, thus enabling the consumer to get the best deal. Access to information is vital to the efficient operation of such a market, and to the ability of consumers to benefit fully.

Similar developments are occurring in other advanced markets. In Europe for example the General Data Protection Regulation (GDPR) proposed to take effect from May 2018 provides a right of data portability under Article 20:

"Where controllers process personal data through "automated means", Article 20 grants data subjects the right to receive the personal data concerning them. Controllers must provide the data in a commonly used and "machine-readable" format, and data subjects have the right to transmit that data to any other controller. Where feasible, the controller may even be required to transmit the data directly to a competitor. "

DATA AVAILABILITY AS A DRIVER OF MARKET EFFICIENCY AND NEW BUSINESS MODELS

As with many sectors of the economy the food and grocery sector is being disrupted by the development of new business models facilitated by new technology. In the past, traditional bricks-and-mortar retailers filled the role of curator and aggregator of product and the provision of essential infrastructure (display shelves and checkouts) to facilitate efficient consumer fulfillment. This was a one-to-many business model with little or no development of individual relationships between retailer and shopper.

Over the past two decades the development of online retailing, involving websites in place of display shelves and home delivery of product has created a one-to-one retailing model that is challenging traditional bricks and mortar retailing across many categories. Consumers are benefitting in multiple ways including:

- access to a broader range of products than can be displayed in a physical store;
- access to the 'long tail' of products that are no longer popular enough to warrant display in a bricks and mortar retail store but are nonetheless in demand by a subset of consumers;
- the ability to easily compare prices across different retailers in different markets;
- the convenience of being able to shop from home and have products home delivered; and
- access to personalised offers or recommendations based on purchasing history.

E-commerce and online shopping has spawned new businesses that are growing rapidly in response to consumer demand. Traditional retailers have responded to the challenge of e-commerce by developing their own online offering to consumers, including options such as click-and-collect and home delivery.

At the heart of the disruptive power of online shopping are the individual insights about the purchaser provided to the seller in this new one-to-one model for consumer fulfilment. Far more precise matching of products to an individual's wants are possible as the seller builds a detailed profile of the consumer based on purchase decisions. As technology continues to develop and data analytics continues to improve the potential for mass personalisation and the consumer benefits that flow from it become realisable. At the same time it raises questions about the use and control of an individual's data.

The creation of a joint right over individual data under which a consumer could direct that a copy of their data be provided to a third party would hasten the growth of new business models for consumer fulfilment in the food and grocery sector. For example, if a consumer who is a member of a major retailer loyalty program could direct that a copy of their full transaction history be provided to a new online market entrant it would enable the consumer to potentially obtain a better deal and facilitate greater competition in the market.

Currently Australia lags other developed economies in the penetration of new online trading. The online share of total retail sales in Australia is roughly half that of the UK and the USA, for example. In the food and grocery sector, the online share of sales in Australia is even lower, at around one quarter the share in the UK. Australia's major supermarket chains, Coles and Woolworths, have the dominant retail loyalty programs and will harvest the individual data and insights from millions of members to defend their market position. But if consumers had the right to transfer their individual loyalty program data to competitors, including new online competitors, it would facilitate new market entrants, enhance

competition and generate consumer benefit. It would also facilitate the development of new business models for traditional businesses, including FMCG manufacturers, involving direct to consumer sales that bypass retailers altogether.

Individual data is at the heart of the new business models for consumer fulfilment and therefore ease of access to individual data will be a determinant of the growth and success of new businesses in this space.

SUMMARY

As the peak national representative body for manufacturers and suppliers in the Fast Moving Consumer Goods (FMCG) sector the AFGC has a particular interest in the ways that consumers can use and benefit from access to data, particularly data held about themselves. The AFGC supports the recommendation from the Productivity Commission that individual consumers should have a *joint right* shared between the individual and the businesses or agencies that hold the individual's personal data. This new right would extend to include the ability to direct that a copy of their data be transferred safely from one data holder to another, noting that the data would need to be published in a machine readable and commonly used format.

This submission focuses on individual shopper data held by major retailers and the benefits that might flow to consumers if they had the right to require that a copy of their personal data be provided to a nominated third party, including other retailers, e-commerce operators or FMCG manufacturers, as envisaged under the Productivity Commission's recommendations.

The AFGC believes that:

- the provision of this new consumer right is warranted given the value of the personal data and the fact that it is consumers who are effectively providing the data through their purchase decisions;
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