



Submission to the Productivity Commission Inquiry on Data Availability and Use

1. Executive summary

1.1 The importance of data to the Commonwealth Bank

The Commonwealth Bank of Australia Group (**Commonwealth Bank**) is one of the world's leading financial institutions and a key contributor to the Australian economy. The Commonwealth Bank welcomes the opportunity to provide input into the Productivity Commission Inquiry into Data Availability and Use (**Inquiry**).

The focus of the Inquiry is a matter of significant importance to the Commonwealth Bank. Data is a core enabler for every aspect of our business, from credit decisioning for small businesses, to valuing properties for first home buyers. Accurate and secure financial data is vitally important and underpins customers' financial wellbeing. Reliable data not only permits business and individuals to structure their affairs, it is critical in enabling Australian businesses and communities to access timely finance.

The Commonwealth Bank recognises this and commits material, sustained funding to secure and maintain its data assets. The level of investment in data technology and cyber security has steadily grown, reflecting the value that the Commonwealth Bank places in the data it holds to provide better services to its customers, and the systemic importance of data to building and maintaining trust in the financial services sector.

Realising the gains from innovation in financial services will depend on companies investing and partnering where this is commercially sustainable and continues to provide the levels of security, privacy and reliability that consumers expect. Without the ongoing policy settings to encourage this investment Australia will be at risk of falling behind in financial services innovation to global peers.

1.2 The Commonwealth Bank supports growth and innovation

The Commonwealth Bank supports the government's focus on innovation which reflects its own values as an organisation. The Commonwealth Bank has been consistently recognised as one of the country's most innovative companies and strongly believes that innovation helps deliver on its vision of securing and enhancing the financial wellbeing of people, businesses and communities.¹

In relation to use of data, the Commonwealth Bank has consistently adopted a position that seeks to strike the right balance between meeting the needs of the innovation economy and protecting

¹ Commonwealth Bank was ranked as one of BRW's 50 Most Innovative Companies in 2013 (2nd), 2014 (6th) and 2015 (15th). See also Appendices A and B to this Submission for a list of innovation awards received and examples of innovations that Commonwealth Bank has released in recent years

customer privacy and security. The Commonwealth Bank's submission to the Financial System Inquiry included a commitment that:²

Commonwealth Bank strongly supports a more cooperative approach between government and industry in the use of data.

To meet the needs of customers Commonwealth Bank must maintain their trust. As such, policies on data use must recognise the foremost importance of strong security and protecting customer privacy. Important principles are that data be appropriately aggregated and anonymised, and that customers have the right to opt-out from their data being provided to third parties.

Any approach that mandates government access to data, or creates additional regulatory obligations for the private sector in relation to its data, must recognise that private enterprises invest in building, maintaining and protecting data for the primary benefit of their customers.

1.3 There is no need for regulatory intervention

The Commonwealth Bank is of the firm view that growth in innovation and a strong finance sector can be achieved without the need for additional regulatory intervention regarding data access. This submission draws the Commission's attention to two key considerations.

Firstly, customers' needs in relation to data are already well-served by their financial services providers. Existing privacy laws provide individuals with clear enforceable rights to access their own data. The Commonwealth Bank in particular gives its customers free tools to access, manage and extract their financial transaction data in a secure manner. Introducing a framework that permits broad access to customer data by third parties creates privacy and security risks which customers may not be able to understand or control.

Secondly, apart from the fact that Australians have existing legal rights to access their data and have the benefit of offerings such as the Commonwealth Bank's technology to extract their financial transactions, the finance sector has been proactively driving innovation for the benefit of customers. Financial services providers such as the Commonwealth Bank have a strong track record of creating innovative offerings through internal development.³ In addition, the finance sector has produced a number of strategic partnerships involving established market participants and new entrants working together to drive innovative collaboration. These developments occur without the need for regulatory intervention.

To date, an industry led, co-operative model has been an effective environment for providing Australian consumers with world class innovative financial services products.

1.4 Mandating open data access may reduce incentives to innovate

The Commonwealth Bank's view is that over-regulation of data access rights could in fact be counter-productive and also potentially damaging to innovation in Australia.

The Commonwealth Bank, like many other major financial institutions, has invested significant operational resources in establishing, maintaining and securing its data assets. Those data assets are a fundamental part of the Commonwealth Bank's business model and allow it to use that data safely and appropriately to assist its customers with their financial wellbeing needs. Indeed, if government

² Commonwealth Bank Submission to Financial System Inquiry, Final Report (March 2015)

³ See the Appendices A and B to this Submission for a list of innovation awards received and examples of innovations that Commonwealth Bank has released in recent years.

were to compel open access to customer financial data, this would devalue the industry's investment in data and act as a disincentive to ongoing investment.

2. Recommendations regarding the availability of private sector data

The Commonwealth Bank is supportive of the aims of the Inquiry and welcomes an economy (and a finance sector) where innovation is rewarded. The Commonwealth Bank agrees with the distinction that the Commission has made between 'data' and 'information'. Any discussion in this paper regarding access are limited to 'data'.

The Commonwealth Bank proposes that the Commission consider the following three recommendations which, taken together, will ensure policy-makers strike the right balance in this challenging space.

Recommendations

Recommendation 1 – Avoid mandatory open data access

In the finance sector, private sector datasets should not be subject to mandatory open access. Rather, data-sharing arrangements should be driven by market forces.

Recommendation 2 – Protect customer interests

Existing regulations and customer protections must continue to apply. Privacy considerations should remain a priority and policy-makers should continue to ensure clarity around the allocation of liability for security and use of data.

Recommendation 3 – Work collaboratively with industry

Recognising the Commission's desire to develop an approach which balances the government's innovation agenda with protecting customer rights and continuing to incentivise private sector investment, we recommend any approach be developed collaboratively with industry.

2.1 Recommendation 1 – Avoid mandatory open data access

The Commonwealth Bank recommends that data-sharing arrangements for private sector datasets should be driven by market forces.

2.1.1 Customers already have the right to access their data

For over 10 years, customers of the Commonwealth Bank have had the ability to extract their financial transaction data into CSV files. This functionality, which is provided free of charge, enables customers to access data in the Commonwealth Bank's secure NetBank environment and download data for their own use.

It is unnecessary to mandate open access to financial transaction data when this sort of functionality is already freely available and provides customers with control over their own data. The experience in the United Kingdom with its 'open banking' standard⁴ shows that attempts to impose additional regulation around access to data have progressed slowly. In the UK, for instance, practical challenges with data sharing have led to banks largely reverting to providing data via CSV files, an offering which the Commonwealth Bank already makes available in Australia.

⁴ The UK Government has committed to implementing an open banking standard to facilitate data access and sharing. Recent statements indicated that the Government was willing to legislate to mandate compliance by 2017.

The Commonwealth Bank believes that Australia has an opportunity to learn from the experiences of policy-makers in other jurisdictions. In particular, this paper recommends that government recognise the initiative of organisations like the Commonwealth Bank who already provide customers with free access to their data and refrain from regulatory intervention that potentially cuts across these activities.

2.1.2 Fostering innovation through partnership

The Australian finance sector has a strong track record of partnerships between established market participants and start-ups to better meet the needs of businesses and customers. Those partnerships, which often involve a sharing or ‘pooling’ of data assets, are important enablers for start-up organisations and have driven innovation that ultimately benefits consumers and the economy.

The Commonwealth Bank is an active participant in this market. Importantly, it is the Commonwealth Bank’s practice to perform comprehensive checks to ensure that its partners share its values, its commitment to security and its focus on customer financial wellbeing. Where a partnership involves customer data being made available to a third party, the Commonwealth Bank will perform due diligence on the third party, ensuring it imposes legally binding security obligations and performs audits of its partner’s security practices.⁵ The Commonwealth Bank’s approach enables customer-centred innovation without compromising on customer security and privacy.

The Commonwealth Bank believes that voluntary, market-driven partnerships produce the best outcomes for customers and the economy. This philosophy is evident in other markets. The US Office of the Comptroller of the Currency recently released a discussion paper in relation to innovation in the US banking system.⁶ The paper observes the benefit of “strategic and prudent collaboration” without calling for mandatory sharing of banking data.

New Zealand policy-makers have established a framework to mandate sharing of public sector data through initiatives such as the Open Government Data Framework.⁷ Sharing of private sector data remains largely unregulated, with New Zealand policy-makers trusting market forces to create data sharing opportunities that protect commercial investment whilst at the same time serving customer interests.

Case Study

Fostering innovation through partnerships: Recent examples

The Commonwealth Bank has a history of seeking out partnerships with third parties to deliver benefits to customers. We carefully select partners who enable us to produce innovative offerings for customers, while sharing our values around customer privacy and protection.

⁵ Commonwealth Bank’s security assessment process contains a mix of regulatory, proprietary and industry thresholds, including evaluating the maturity of the partner’s Information Security Management System (ISMS) against the ISO27001 & NIST information security standards. A full assessment can involve up to 6 weeks’ work to ensure customer data is protected.

⁶ “Supporting Responsible Innovation in the Federal banking System: An OCC Perspective” Office of the Comptroller of the Currency, March 2016.

⁷ New Zealand’s approach has been recognised as amongst world’s best practice in relation to open access to public data. <https://www.ict.govt.nz/programmes-and-initiatives/open-and-transparent-government/>

Xero

Xero is one of the leading online accounting software providers to Australian small businesses. Xero's software enables small business owners and their accountants to manage their business accounts on desktop and mobile, managing cash flow, invoicing, payroll and other functions.



Since 2012, the Commonwealth Bank has been providing small business customers access to the Commonwealth Bank transaction data within the Xero online environment. Both the Commonwealth Bank and Xero have committed to the success of this partnership by investing in technical infrastructure to support sharing of data in a secure and efficient manner. Data is only supplied upon the express consent of the customer and no log-in or password credentials are disclosed.

In 2016, the partnership was expanded to enable a fully digitised set-up process and enhanced data feeds. Within the first few weeks launching new capabilities, thousands of customers have signed up for the service, affirming that there is customer demand for this type of co-led innovation.⁸

OnDeck



In 2015, the Commonwealth Bank partnered with OnDeck a leading online lender to small businesses. The partnership involves a referral program that identifies and refers small business customers that might otherwise be unable to access financing with the Commonwealth Bank.⁹

By proactively sharing data in this way, the Commonwealth Bank and OnDeck are able to support important growth in the small business market whilst also providing commercial returns for both parties. The partnership was recognised at the inaugural Australian Fintech Awards in 2016 where the Commonwealth Bank received the award for the best Fintech-Bank Collaboration of the year.

2.2 Recommendation 2 – Protect customer interests

This paper recommends that the Commission re-affirm the importance of existing regulations and customer protections. These considerations – which would include privacy, security and clear rules around liability – should be prioritised.

2.2.1 Engendering customers trust

Customers entrust their data to the Commonwealth Bank, which carries with it an expectation of security and privacy, the central tenets that underlie customer trust.¹⁰

To maintain this trust, the Commonwealth Bank has established extensive measures to assure security of customer data.

- The Commonwealth Bank has established a broad range of Security Standards that address every step of the data life-cycle, from collection through to storage and use, and even secure

⁸ "Xero and Commonwealth Bank beef-up their small business links" Australian Financial Review 12 July 2016.

⁹ See "CBA does referral deal with OnDeck" in Sydney Morning Herald 17 December 2015.

¹⁰ Australians place a high level of trust in their financial institutions. In Deloitte's Australian Privacy Index 2016, Banks were ranked first as the most trusted industry, and five of the top ten most trusted organisations were from banking and finance.

destruction. These standards include a set of 'Security Non-Negotiables' which are practices that the Commonwealth Bank insists are followed whenever customer data is handled.¹¹

- In addition to Security Standards, the Commonwealth Bank has extensive policies and processes designed to ensure compliance with applicable regulations, such as privacy laws, credit reporting frameworks and TFN regulations.¹²
- The Commonwealth Bank recognises online threats as a significant and growing area of concern and commits significant financial and operational resources to maintaining and enhancing its cyber security framework. The level of investment reflects the vast amounts of data that the organisation is responsible for, and also its role in contributing to stability in the Australian economy.
- For its retail banking customers, the Commonwealth Bank offers a '100% Security Guarantee'.¹³ Under this Guarantee, customers are assured that the Commonwealth Bank will fully cover their financial loss as a result of unauthorised online transactions (provided the customer has taken steps to also protect their client number and password).

Protecting the data security of customers is critical to the Commonwealth Bank's reputation and maintaining the trust of its customers. This trust between financial services provider and customer is fundamental to an efficiently functioning finance sector.

2.2.2 Financial wellbeing

In addition to basic banking services and financial products, the Commonwealth Bank aims to provide its customers with resources to help them enhance their financial wellbeing. To do this, the Commonwealth Bank uses both in house and external expertise to produce insights and enhanced services to ensure that its customers continue to see it as an important partner in their financial wellbeing. The bank does this with tools such as notifications to provide customers information about their financial status as well as alerts to then encourage sustainable spending habits. Given its role as a key partner in our customers' lives, the Commonwealth Bank is deeply motivated to perform this role in a manner that protects customers' privacy and security.

In addition, the Commonwealth Bank has a range of controls designed to ensure broad stakeholder engagement. A comprehensive set of policies coupled with multiple levels of organisational governance encourage decisions that are customer-centric and values-driven. In addition, the Commonwealth Bank is highly regulated with a strong focus on its prudential obligations.

2.2.3 Compelling access undermines trust

Protecting consumer rights and maintaining trust is a key feature of Australia's legislation and also central to the Commonwealth Bank's vision and values. The Commonwealth Bank is firmly of the view that these principles outweigh the perceived benefit of open data access. Indeed, compelling access to customer financial data challenges the trusted relationship between financial services institutions and their customers in several ways.

¹¹ Compliance with these standards would effectively affirm meeting Soc Type 2, ISAE 2 standards.

¹² The Commonwealth Bank is compliant with the Privacy Act and Australian Privacy Principles and recently passed assessment by the Privacy Commissioner. The Bank's Privacy Policy is publically available to customers and governs our credit reporting framework.

¹³ The guarantee is honoured subject to certain conditions in relation to customers also taking reasonable steps to protect their own security. See <https://www.commbank.com.au/security-privacy/netbank-security.html>

- **Customers lose control.** By expanding access to third parties, customers potentially lose control over their data. This can lead to negative customer outcomes if customers are not involved in decisions around the use of their own data and financial wellbeing – for instance, customers should not be targeted to switch to less beneficial products or subjected to unnecessary marketing or ‘spam’ and their data should not be on-sold or exploited with no value add or benefit to the customer.
- **Liability is unclear.** Customers of the Commonwealth Bank have clear assurances in the form of a 100% Security Guarantee, which is supported by the provisions of the ePayments Code. If data is shared with third parties which do not offer the same level of protection, this exposes customers in the event of fraud and also puts at risk the ability of the Commonwealth Bank to continue to offer this level of assurance.
- **Security standards are compromised.** If data is shared amongst parties with different levels of security controls that data is immediately exposed to the vulnerabilities of the party with the lowest security. This could result in increased fraud, identity theft and disputed payments and could ultimately erode confidence in the financial system we take for granted in Australia (not to mention increasing costs for the entire industry, some of which may ultimately be borne by the customer). The Commonwealth Bank believes these high standards are non-negotiable and financial services organisations should be encouraged to enter commercial arrangements with partners who have similar commitments to and investment in the infrastructure and systems to maintain these standards.
- **Avoid misuse of data.** On top of ensuring security is not compromised, it is important to avoid data being misused in scenarios where there is little benefit to the customer. Mandatory access to data can erode this trust if parties who do not have adequate controls and customer-centric values are provided with broad access to customer financial data.

The Commonwealth Bank believes the decision around data access and the applicable controls should sit with the affected customer and the person with the primary relationship with that customer. It is the Commonwealth Bank’s view that financial services providers are well placed to protect customer interests. Institutions like the Commonwealth Bank hold a responsibility to protect their customers’ data and have, over time, developed comprehensive processes to address the risks described above. Those processes include ensuring customer consent is captured and respected, and maintaining ongoing compliance with privacy regulations.

Case Study

Engendering customer trust through the 100% Security Guarantee

In May 2016, the Commonwealth Bank customer Mr S, was a victim of malware which found its way onto Mr S’s computer system. When attempting to make a NetBank transfer, the malware altered the payment destination, resulting in \$38,394.36 being transferred out of his account without his authority.

Mr S had taken reasonable measures to protect his client number and password. The Commonwealth Bank worked with Mr S and ultimately he was able to rely on the 100% Security Guarantee. The Commonwealth Bank resolved the matter by reimbursing Mr S the full amount of his loss.



The safety of your money is 100% guaranteed.

This means we'll cover any loss should someone make an unauthorised transaction on your account using NetBank – provided you protect your Client number and Password, and immediately notify us of the loss, theft or misuse of your password and of any suspicious activity on your account. Report suspicious activity on your account by calling 13 2221 option 4 (24 hours a day, 7 days a week).

There are other customers who enter into arrangements with data aggregators, whereby their access credentials are shared and their data exported outside the Commonwealth Bank's secure NetBank environment. Where loss occurs in those instances, the 100% Security Guarantee may not be available.

2.3 Recommendation 3 – Work collaboratively with industry

The need for ongoing innovation in the Australian economy is already well-served through creative endeavours generated by existing market participants. The Commonwealth Bank is proud of the role it has played in bringing key innovations to the Australian economy.¹⁴ Innovation has also been generated through partnerships between existing market participants and start-ups, with market forces naturally incentivising co-creation to serve a customer need.

If the Commission wishes to explore other alternatives to broaden access to private sector data, the Commonwealth Bank recommends that further consultation be conducted to agree:

- the datasets where increased access might be justified – it is this submissions view that these would be basic datasets at most;
- the controls that should be applied before access is permitted – it is this submissions view that several controls should be considered taking into account both customer consent as well as the organisational controls desirable to ensure data integrity; and
- ways to ensure that private firms have commercial incentives to invest in data assets – the financial commitment in maintaining and securing data is significant.

This consultation and analysis should be done at an industry level, involving a cross-section of market participants. Because of the scale, nature and characteristics of data held by financial institutions, the Commonwealth Bank believes that the finance sector carries a level of complication that justifies special consideration.

4. Conclusion

The Commonwealth Bank supports the government's focus on innovation and advocates for a policy framework that recognises the significant investment and innovation by Australian companies in data access, transformation and analysis. This submission recommends that the focus of a successful framework should be on encouraging investment in innovation and market mechanisms to facilitate voluntary co-operation, and not on further regulatory intervention.

¹⁴ A list of recent awards is set out in the attached Appendix.

Australia has strong consumer protections, privacy and security mechanisms. The Commonwealth Bank recommends the Commission use the opportunity of the Inquiry to re-affirm the importance of these considerations.

The Commonwealth Bank would welcome the opportunity to speak further with the Productivity Commission in relation to any aspect of this submission.

APPENDIX A

COMMONWEALTH BANK AWARDS

List of Independent Awards (2014 to 2016 only)

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|-------------------|---|
| 2014 | <ul style="list-style-type: none">- BRW Commonwealth Bank 6th most innovative companies 2014- Mobile App Design Awards 2014 Winner for Commonwealth Bank Mobile App- CANSTAR Innovation Excellence – MyWealth- CANSTAR Innovation Excellence Tap & Pay- AB&F Best Innovative Retail Banking Product – Tap & Pay- AB&F Best Innovative Card & Payment Product – Tap & Pay |
| 2015 | <ul style="list-style-type: none">- BRW Commonwealth Bank 15th most innovative companies 2015- Money Magazine’s Best Innovative Banking App of the Year- Money Magazine’s Banking Website of the Year- CANSTAR Innovation Excellence 2015 (“Cardless Cash” and “Lock, Block and Limit”)- National iAward for Best Consumer Product – Commonwealth Bank Mobile App- CANSTAR Innovation Excellence – Daily IQ |
| 2016
(to date) | <ul style="list-style-type: none">- CANSTAR Award for Online Banking- AB&F Award for Innovative Card & Payment Product of the Year- Fintech-Bank Collaboration of the Year at the Australian Fintech Awards |

APPENDIX B – COMMONWEALTH BANK AWARDS

Timeline of New Product Launches

