



Australian
Competition &
Consumer
Commission

EXECUTIVE OFFICE

Data Availability and Use Inquiry
Productivity Commission
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// January 2017

By electronic upload

Dear Commissioners

ACCC submission on draft report on data availability and use

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to provide this short submission on the draft report by the Productivity Commission (PC) into data availability and use.

This submission addresses the recommendations that individuals have a “Comprehensive Right” to access data, and that the ACCC take on roles to support the reformed framework for data access. The ACCC sees these issues as related, as realising the benefits of the proposed “Comprehensive Right” will depend in part on having strong frameworks to support it, and which give consumers confidence to make use of the right. As the PC notes, its recommendations are informed by the recognition that personal data is a valuable asset in the hands of consumers, rather than viewing data solely in terms of privacy or as a risk or an overhead. Supporting this change with effective regulatory frameworks will be an important prerequisite to realising its benefits, ensuring that the access right is not compromised by inappropriate data transfer or charging practices.

“Comprehensive Right” to access data

The ACCC supports the PC’s recommendation that individuals should have a “Comprehensive Right” to access digitally held data about themselves, including to direct that data custodians copy that data to a nominated third party (draft recommendation 9.2). As noted by the PC and previous inquiries, giving consumers more access to data about themselves enhances consumer participation and assists consumers to make better purchasing decisions. It also promotes competition to the benefit of the wider economy.¹

Giving consumers the ability to direct a data custodian to copy personal data to a third party is an important component of assisting consumers to compare competing offers, and to make a more informed choice about what best suits their needs. It should also make easier the act of switching from one service provider to another, particularly for more complex products and services where there can be a reluctance to change. The work of the ACCC and the Australian Energy Regulator in the energy, telecommunications and private health

¹ Both the Competition Policy Review (the Harper Review) and the Financial System Inquiry (the Murray review) included findings to this effect.

insurance sectors has shown the complexity of these products and the difficulties that consumers have in comparing them. Choice can appear too difficult, and consumers can remain with their current provider, leading to sub-optimal results for competition and economic welfare. The PC's recommendations help to address this growing concern.

The PC's proposal should also encourage service providers to make more tailored offerings to consumers, and to innovate and market new or different products and services that better meet consumer preferences. This could also include new entrants, as empowering consumers to direct data to these start-ups would likely assist in lowering barriers to entry.

Regulatory oversight of the data access regime

The PC recommends that the Australian Government provide for broad oversight and complaints handling functions within the reformed framework for individual data access. This would include assigning key roles to the ACCC and other organisations (draft recommendation 9.3). Further, the PC recommends that any charging regimes, policies or practices introduced to address costs associated with data access, editing or transferability should be transparent and reasonable. The PC specifically recommends that the ACCC have responsibility for monitoring and assessing the reasonableness of charges applied. The PC also recommends that the ACCC, supported by state and territory fair trading offices, should educate and advise consumers on their new rights in regard to data access and collection.

The ACCC is open to taking on new roles in this area, given the clear competition and consumer interests involved, subject to further consideration of resourcing implications.

Please contact Josh Davies
submission.

if you have any queries in relation to this

Yours sincerely

Roger Featherston
Acting Chair
Australian Competition and Consumer Commission