



9 September, 2022  
FOI ref: 3139

Luke

By email: [foi+request-9134-37963b25@righttoknow.org.au](mailto:foi+request-9134-37963b25@righttoknow.org.au)

Dear Luke

### FREEDOM OF INFORMATION REQUEST – DECISION

I refer to your request to Treasury on 15 July 2022 for access, under the *Freedom of Information Act 1982 (FOI Act)*, to the following:

*I am looking for any documents relating to the consultation period for the implementation of direct to consumer obligations as part of the consumer data right.*

*I am specifically requesting any documents referring to this consultation since April 30 2021 when a future consultation period was announced.*

I can advise that a timeline for consulting on the implementation of direct to consumer obligations, including associated technical standards, has not been set since these obligations were deferred by rule changes in October 2021. However, I note that direct consumer access to data is one of the topics being considered through an independent Statutory Review of the Consumer Data Right (CDR) (see <https://treasury.gov.au/review/statutory-review-consumer-data-right>).

The review is exploring implementation of the CDR to date and will assess whether the CDR framework is fit-for-purpose to provide benefits for consumers, increase competition, and drive innovation. One of the questions raised in the terms of reference (ToR) is whether the CDR framework could be revised to facilitate direct to consumer data sharing (see <https://treasury.gov.au/review/statutory-review-consumer-data-right/tor>). Further information and context on the ToR questions can be found in the recently released issues paper (see <https://www.cdr.gov.au/news/consultations/statutory-review-consumer-data-right-issues-paper>). The public consultation for the review has now closed with further activity of the Statutory Review of the Consumer Data Right a matter for Government. Next steps are currently under consideration.

I am an authorised decision maker under section 23 of the FOI Act.

### **Decision**

The Treasury has identified 27 documents within scope of your request, listed in the attached schedule. I have decided to release 25 documents in full (documents 1-10, 12-25 and 27). I have decided to release two documents in part (documents 11 and 26). Irrelevant information

[treasury.gov.au](https://treasury.gov.au)

@treasury\_AU

@commonwealthtreasury

@australiantreasury

Langton Crescent  
Parkes ACT 2600  
Australia

P: +61 2 6263 2800

in the documents has been deleted under section 22 of the FOI Act. My decision on each document is shown in the schedule.

The documents for release are attached.

Further information regarding my decision is set out below.

### ***Material Considered***

The material to which I have had regard in making this decision includes:

- the scope of the FOI request;
- the content of the documents subject to your request;
- the relevant provisions in the FOI Act;
- advice from subject matter experts within the Treasury;
- consultation responses; and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

### ***Reasons for decision***

#### Material deleted pursuant to Section 22

Section 22 of the FOI Act allows information that is irrelevant to your request to be deleted.

The documents within scope of your request contain the names, emails and direct phone numbers of government employees. We informed you in our email of 25 July 2022 that it is our usual practice not to include the personal information of government employees and invited you to inform us if you did not agree with us processing the request on this basis. As we did not hear from you, the personal information of government employees has been deleted under section 22 of the FOI Act.

The documents within scope of your request also contain material that is irrelevant to your request. This material has been deleted under section 22 of the FOI Act.

#### Section 47F – personal privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person. It also provides that, in determining whether the disclosure of a document would involve the unreasonable disclosure of such personal information, an agency must have regard to:

- a) the extent to which the information is well known;
- b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
- c) the availability of the information from publicly accessible sources; and
- d) any other matters that the agency or Minister considers relevant.

In addition to the factors specified in section 47F of the FOI Act, the FOI Guidelines provide that the personal privacy exemption is designed to prevent the unreasonable invasion of a third party's privacy. The test of unreasonableness implies a need to balance the public interest in disclosure of government-held information and the private interest in the privacy of individuals.

Documents 11 and 26 contain the names and contact details of individuals working in the private sector. I am satisfied this information is personal information for the purposes of section 47F of the FOI Act. I am also satisfied that the personal information and the individuals' connection to the matters dealt with in the documents is not well known and release would, in the circumstances, be unreasonable. I therefore find that documents 11 and 26 are conditionally exempt in part under section 47F of the FOI Act. My considerations of the public interest in release of this conditionally exempt material are set out below.

#### *Public Interest*

Section 11A(5) of the FOI Act provides that conditionally exempt material must be released unless its disclosure would, on balance, be contrary to the public interest. Section 11B(3) sets out public interest factors favouring release, and section 11B(4) sets out factors that must not be taken into account. I have not taken into account any irrelevant factors set out in section 11B(4) of the Act in making this decision. The FOI Guidelines also set out factors in favour of, and against, releasing conditionally exempt material.

Having considered the objects of the FOI Act and the FOI Guidelines, I find that the public interest factor favouring release of the information is the promotion of the objects of the FOI Act.

I have also considered the public interest factors against disclosure. In relation to documents 11 and 26, I have considered the public interest in preserving the personal privacy of individuals working in the private sector who are not publicly known to be associated with the matters dealt with in the documents. I consider that there is no public interest in the release of the names and contact details of those individuals.

On balance, I find that the public interest factors against disclosure outweigh the factors favouring disclosure. Accordingly, I have decided that documents 11 and 26 are exempt in part under section 47F of the FOI Act.

#### *Rights of Review*

A statement setting out your rights of review in this matter is attached.

#### *Disclosure Log*

The Treasury publishes documents disclosed in response to FOI requests on the Treasury website on the same day that the decision is sent to an applicant. This is consistent with the arrangements established by section 11C of the FOI Act.

Yours sincerely



Barton Hoyle  
A/g Assistant Secretary  
Consumer Data Right Division

### FOI 3139 Document Schedule

Doc No.	Description	Decision
1.	Consumer Data Right (CDR) newsletter: 17 May 2021	Release in full
2.	Response to queries: Deferral of joint account and direct to consumer obligations	Release in full
3.	Consumer Data Right Board – Meeting details and Agenda – 18 May 2021	Release in full - Section 22 – irrelevant information
4.	CDR Board – Action Items Summary – 20 April 2021	Release in full - Section 22 – irrelevant information
5.	Consumer Data Right Board – Meeting details and Agenda – 15 June 2021	Release in full - Section 22 – irrelevant information
6.	CDR Board – Action Items Summary – 18 May 2021	Release in full - Section 22 – irrelevant information
7.	Extract of Ministerial Submission MS21-001248 dated 18 June 2021 to the former Minister for Superannuation, Financial Services and the Digital Economy, and Minister for Women’s Economic Security	Release in full - Section 22 – irrelevant information
8.	Consumer Data Right Board – Meeting details and Agenda – 20 July 2021	Release in full - Section 22 – irrelevant information
9.	CDR Board – Action Items Summary – 15 June 2021	Release in full - Section 22 – irrelevant information
10.	Extract of Ministerial Submission MS21-001344 dated 13 July 2021 to the former Minister for Superannuation, Financial Services and the Digital Economy, and Minister for Women’s Economic Security	Release in full - Section 22 – irrelevant information
11.	Response to third party questions from CDR Rules v3 presentation	Release in part - Section 47F – personal privacy - Section 22 – irrelevant information

<b>12.</b>	Noting Paper 207: Draft v3 Rules Analysis – Anticipated Data Standards	Release in full
<b>13.</b>	Consumer Data Right Board – Meeting details and Agenda – 17 August 2021	Release in full - Section 22 – irrelevant information
<b>14.</b>	CDR Board Minutes – 20 July 2021	Release in full - Section 22 – irrelevant information
<b>15.</b>	CDR Board – Action Items Summary – 20 July 2021	Release in full - Section 22 – irrelevant information
<b>16.</b>	Consumer Data Right Board – Meeting details and Agenda – 21 September 2021	Release in full - Section 22 – irrelevant information
<b>17.</b>	CDR Board Minutes – 17 August 2021	Release in full - Section 22 – irrelevant information
<b>18.</b>	CDR Board – Action Items Summary – 17 August 2021	Release in full - Section 22 – irrelevant information
<b>19.</b>	Consumer Data Right Board – Meeting details and Agenda – 19 October 2021	Release in full - Section 22 – irrelevant information
<b>20.</b>	CDR Board Minutes – 21 September 2021	Release in full - Section 22 – irrelevant information
<b>21.</b>	CDR Board – Action Items Summary – 21 September 2021	Release in full - Section 22 – irrelevant information
<b>22.</b>	Consumer Data Right Board – Meeting details and Agenda – 16 November 2021	Release in full - Section 22 – irrelevant information
<b>23.</b>	CDR Board Minutes – 19 October 2021	Release in full - Section 22 – irrelevant information
<b>24.</b>	CDR Board – Action Items Summary – 16 November 2021	Release in full - Section 22 – irrelevant information
<b>25.</b>	CDR Board Minutes – 16 November 2021	Release in full - Section 22 – irrelevant information

<b>26.</b>	Correspondence with third party referring to direct to consumer deferral	Release in part - Section 47F – personal privacy - Section 22 – irrelevant information
<b>27.</b>	Correspondence with ACCC regarding Zendesk query regarding direct to consumer obligations consultation	Release in full - Section 22 – irrelevant information

## INFORMATION ON RIGHTS OF REVIEW

### 1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the FOI Act gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

An application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

An application for a review of the decision should be emailed to [FOI@Treasury.gov.au](mailto:FOI@Treasury.gov.au).

**OR**

### 2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the FOI Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

An application for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

**AND/OR**

### 3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the FOI Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.