Accredo CDR Submission

Introduction

Accredo Business Software Ltd is an NZ-owned and operated software company that has been developing accounting and business software for small and medium enterprises (SMEs) in the NZ market for over 30 years.

Over those 30 years, we have witnessed and been part of the evolution in how business IT systems in NZ function. Our customers IT systems are increasingly required to digitally interface with the IT systems of their major suppliers and customers (supply chain integration, ecommerce) – as well as with government IT systems (Tax returns, Payday filing, etc).

As such, Accredo is regularly involved in enabling our customers business IT systems to do exactly that. More recently, our customers have indicated that would also like to digitally interface with their bank's IT systems, hence Accredo has joined the Payment NZ API Centre to participate in the industry-led open-banking initiative.

The digital exchange of data is a key requirement for businesses and individuals to fully participate in the modern economy. Hence, data and access to it has never mattered more and that trend is only going to accelerate. Accredo believes that it is the role of government to establish the 'rules of the road' so that this technological shift does not unduly tilt the playing field and result in only some parties benefitting and others being left disenfranchised.

Question Responses for Section 2 – Does New Zealand need a consumer data right?

1. Are there any additional problems that are preventing greater data portability in New Zealand that have not been identified in this discussion document?

One issue that MBIE may be unaware of is that even when APIs exist, there can be technological choices that are effectively exclusionary and prevent APIs from being of use to all players.

An example of such a technological restriction is API standards that assume the IT system consuming the API will be another centralised (e.g. public cloud) IT system. Whilst cloud deployment is increasing, many businesses are choosing private cloud or on-premises IT systems, and this is not likely to change, which analysts term a hybrid future:

https://www.gartner.com/smarterwithgartner/modernize-it-infrastructure-in-a-hybrid-world/

As such, APIs which are not architecture neutral have the effect of excluding large proportions of businesses from being able to make use of them (at worst) or making the costs of access significantly higher for non-centralised IT systems (at best). This often excludes smaller players from the market resulting in a lessening of competition and innovation.

By way of examples, when the IRD first developed its digital GST Return filing system, it was only consumable by centralised software systems such as public cloud accounting providers since it required a single whitelisted point of connection to the IRD. This meant that despite a large investment of taxpayer dollars, businesses using private cloud or on-premise IT (such as Accredo's

customers) were unable to make use of it, even though they wanted to. To their credit, the IRD acknowledged the exclusionary impact of this technical limitation and resolved it in the second version of the IRD IT projects.

Similarly, version 2 of the Payment NZ API Centre open-banking standards dropped support for what are called “public clients”. As such, they also currently require a single point of connection from any third-party user’s IT system to all bank IT systems. Again, this has the effect of technically excluding private cloud and on-premises IT users from being able to directly access them.

Unlike the European open-banking regime, the Australian CDR banking standards also have this limitation, technically excluding “public clients”. This forces consumers to go through third party intermediaries (e.g. fintech companies) to access their own data. They may need to pay for access and must disclose (and potentially share) their banking data as it moves through those third-party servers. This banking data could be kept completely private to the consumer if public clients were supported and that requires overarching CDR principles that enshrine technical neutrality regarding consumer IT infrastructure.

2. Do you agree with the potential benefits, costs or risks associated with a consumer data right as outlined in this discussion document? Why/why not?

Yes, Accredo agrees with the benefits, costs and risks outlined. In reference to the costs imposed on industry, Accredo takes the view that where there are significant public benefits, a level of private cost to industry is not unreasonable since industry participants draw significant benefit from the very existence of the public marketplace. Such companies will likely also be CDR beneficiaries in other sectors.

3. Are there additional benefits, costs or risks that have not been explored in the above discussion on a consumer data right?

There is a significant benefit that is mentioned in passing under increased productivity but which Accredo wishes to highlight. A consumer data right should **not** just focus on an arguably passive right for consumers to share data with trusted third parties, like the Australian CDR does. This places consumers in the position of waiting and hoping for fintech companies to eventually provide new services or products that address their problems or interests.

Accredo takes the view that CDR should imply a customer’s **right to participate** in relation to **their own data** in the digital economy directly. Being able to consume your own data is a key potential benefit. Consumers are then empowered to interface their own IT systems and to build the very services that meet their own individual use cases.

4. What would the costs and benefits be of applying the consumer data right to businesses and other entities, in addition to individuals?

Our experience over 30 years in the accounting software industry is that NZ small and medium businesses are eager to take advantage of **any** IT initiative to increase efficiency and develop or maintain their competitive advantage. Our customers have already strongly indicated their interest in using open banking APIs to digitally interact with the data held by their banks for their own use. This is why Accredo has invested significant amounts of organisational resources to join and participate in the Payment NZ API centre as a third-party member.

Large NZ enterprises already have the market power and resources to forge direct IT relationships with NZ banks and have done so (e.g. Banklink, Xero, Datacom, etc). The remaining small to medium enterprises who make up 97% of NZ businesses currently do not. Absent a CDR that includes all NZ businesses as well as individual consumers, the potential benefits to the NZ economy will be foreclosed. As NZ attempts to rebuild after the impact of COVID, our economy, and small businesses in particular, need every piece of assistance they can get.

Accredo is not aware of any significant increase in costs that will come from the decision to support business consumers.

5. Do you have any comments on the types of data that we propose are to be included or excluded from a consumer data right (i.e. 'consumer data' and 'product data')?

Both types of data provide a consumer benefit and often it is their combined availability that enables truly innovative offerings. For example, product data is what automated comparison systems require to allow consumers to benefit from greatly reduced search costs for products and services.

More importantly, product data availability will underpin the entry of any multi-homed challengers into the market who will need robust tracking of the product offering of the underlying service providers so they can efficiently provide an aggregated interface to them. Only then can increased competition drive down the day-to-day costs for consumers.

6. What would the costs and benefits be of including both read access and write access in a consumer data right?

Question Responses for Section 3 – What form could a consumer data right take in New Zealand?

7. Do you have any comments on the outcomes that we are seeking to achieve? Are there any additional outcomes that we should seek to achieve?

Accredo agrees with the key outcomes as outlined and has none to add.

8. Do you have any comments on our proposed criteria for assessing options? Are there any additional factors that should be considered?

Accredo agrees with the key assessment criteria outlined and has none to add.

9. Do you have any comments on the discussion of Option one: Status quo?

The status quo regarding consumer data in the accounting software sector

The evolution of cloud computing has touched all sectors of the software industry including the accounting software sector in which Accredo has operated for over 30 years. This has led to the emergence of various cloud accounting software providers.

As well as private cloud providers which offer services to medium and large enterprises (e.g. MYOB Advanced, Netsuite, etc), there are also public cloud accounting software providers (e.g. Xero, MYOB online, etc.) that offer services to smaller businesses who have less negotiating power.

In public cloud accounting systems, consumer data sovereignty is entirely absent. As such these small businesses are effectively leasing access to the growing volume of their own critical business data at whatever price the cloud provider ultimately wishes to levy. Even if consumers stop using these systems for their day-to-day operations, they commonly need to keep paying for up to 7 years to meet their IRD audit requirements.

In these public cloud systems, switching costs are often prohibitively high as it is often very time consuming (at best) or impossible (at worst) for the consumer to get their own business data out in a high-fidelity format that can be transformed and transferred into a new accounting system.

Public cloud providers commonly have data access APIs that exist for third parties to use and which do provide access to such data in high-fidelity formats, but the terms and conditions that developers seeking to use them must agree to contain clauses that specifically exclude competitors:

https://developer.xero.com/xero-developer-platform-terms-conditions/

See clause 7b.

https://developer.myob.com/program/myob-developer-terms-conditions/

See clause 7.3.

Public cloud accounting software providers are well on their way to becoming the biggest consumer data holders in the NZ economy. It is not in their financial interest to "open" their APIs to competitor access. Absent a CDR regime that applies to the accounting software sector, it will likely stay this way and result in increased costs and lessened competition for consumers in the accounting software sector.

Given the highly complex and interconnected nature of accounting data, a shared accounting software sector data portability standard is possibly too difficult and time consuming to create for the benefits delivered (i.e. it fails the proposed assessment criteria metric of Cost). However, a CDR regime for the accounting software sector that prevented anti-competitive API access terms and conditions such as those above would largely mitigate this consumer harm issue.

10. Do you have any comments on the discussion of Option Two: A sectoral-designation process?

Accredo agrees that this is the best option. There are considerable benefits to be gained from consistent and overarching principles that inform governance and accreditation frameworks. Yet there are also great benefits to sector specific standards development. Each sectors pool of data and even tiers of data within a sector require careful enumeration and possibly different treatment.

There is also the potential to leverage existing independent bodies like the API Centre as a standards development body but ultimately backed with accreditation and compliance requirements for data holders so that actual consumer benefits happen in a timely fashion.

11. Do you have any comments on the discussion of Option Three: An economy-wide consumer data right?

Accredo views an economy-wide data right as too blunt an instrument for CDR. Economy-wide provisions are certainly appropriate for legislation like the GPDR and the NZ Privacy Act since they are focused on preventing unwanted data disclosure. That is a shared concern and essentially sector independent and an issue for which provisions and penalties can be set economy-wide. In contrast, CDR legislation are about allowing secure data access which is highly sector (and data) specific. In our experience with implementing data access use cases, Accredo's technical experience is that the devil is in the details.

12. Do you have any comments on the discussion of Option Four: Sector-specific approach?

A sector-specific approach fails to take advantage of the fact that many of the governance and security concerns around access to data are common. This would likely lead to considerable re-invention of the wheel (i.e. duplicative and inefficient standards and governance development) as well as an inevitable diversity of approaches taken in different sectors. This would increase implementation costs for third parties and ultimately for consumers since those costs will be passed on and would preclude shared infrastructure and the resulting efficiencies where appropriate.

13. This discussion document outlines four possible options to establish a consumer data right in New Zealand. Are there any other viable options?

Accredo is unaware of any additional options that warrant consideration.

14. Do you have any comments on our initial analysis of the four options against our assessment criteria?

Accredo agrees with the thorough MBIE analysis.

15. Do you agree or disagree with our assessment that Option Two is most likely to achieve the best outcome using the assessment criteria?

Accredo agrees with the MBIE assessment that Option Two is the best option.

Question Responses for Section 4 – How could a consumer data right be designed?

16. Do you agree with the key elements of a data portability regime as outlines in this section? Are there any elements that should be changed, added, or removed?

Accredo agrees with the data portability elements listed.

17. Do you have any feedback on our discussion of any of these key elements?

In sectors where consumer data has considerable complexity (such as the accounting software sector), a CDR regime that required the creation of a shared sector data portability format before "opening" the sector could greatly delay consumer benefit.

If data holders in a given sector have already implemented high-fidelity data access APIs for the use of third parties, CDR legislation that allows competitors to access consumer data via that API with consumer consent would likely provide much of the consumer benefit by largely mitigating the prohibitively high switching costs and hence increasing competition and innovation.

Accredo is not arguing that a sector data portability standard could not (or should not) be pursued in parallel, but only to provide an additional option for consumer data access. The "native" data API that is already documented and implemented should always be available to any accredited third parties where consented by the consumer, specifically including competitors. This "native" data API will always have a higher fidelity and be available in a timelier fashion than the necessarily simplified portable format that the consumers current data would need to be translated into.

On the issue of accreditation, Accredo is also aware that many business consumers will wish to access their own data and will have little interest or desire to pursue costly or complex accreditation processes so as to be allowed to access other parties data. Ideally, any accreditation model should endeavour to make this distinction so that accreditation standards could be appropriately relaxed for self-access.

18. Are there any areas where you think that more detail should be included in primary legislation?

Accredo has no specific suggestions in this area.

19. How could a consumer data right be designed to protect the interests of vulnerable consumers?

Since vulnerable consumers will often not be in a position to fully understand or intervene on their own behalf, Accredo believe that legislation should include the establishment of a CDR Ombudsman who is approachable by the public and who has appropriate powers to take up complaints on behalf of consumers (vulnerable or otherwise) with data providers and third parties.

20. Do you have any suggestions for considering how Te Tiriti o Waitangi should shape the introduction of a consumer data right in New Zealand?

Accredo suggests that the office of the CDR Ombudsman mentioned above should be required to consider treaty principles in any interactions with Māori consumers.

21. How could a consumer data right be designed to ensure that the needs of disabled people or those with accessibility issues are met?

Accredo suggests that CDR legislation should require that standards development bodies must proactively consider and address disabled and accessibility use cases and that these not be left as an after-thought.

22. To what extent should we be considering compatibility with overseas jurisdictions at this stage in the development of a consumer data right in New Zealand?

Overseas consumer data right provisions are a patchwork quilt with little consistency. As such, Accredo's position is that an initial approach to CDR should focus on developing a regime that works for New Zealand consumers and only once that is achieved should it explore harmonisation with overseas jurisdictions, and only where clear economic benefits are demonstrable to warrant the unavoidable costs.

23. Do you have any comments on where a consumer data right would best sit in legislation?

Accredo believes that a consumer data right is best placed in a standalone act. Competition law and Privacy law are a poor fit since they generally focus on preventing competitor collusion (e.g. cartel behaviour) and preventing disclosure whereas CDR is about encouraging groups of competitors (both data holders and third parties) to co-operate to foster pro-competitive data disclosure and innovation.

24. Do you have any comments on the arrangements for establishing any new bodies to oversee parts of a consumer data right?

Accredo has nothing additional to add beyond our recommendation for a CDR Ombudsman as previously mentioned.

25. What are the pros or cons of having multiple regulators, or a single regulator, involved in a consumer data right?

Accredo believes a single regulator is both more efficient and appropriate since governance and compliance concerns are essentially shared and regulatory consistency is highly desirable across sectors. This is consistent with the Australian experience using multiple regulators which has resulted in recommendations to move to a single regulatory body.

26. If government decides to establish a consumer data right, do you have any suggestions of how its effectiveness could be measured?

Accredo believes that sector specific infrastructure should include comprehensive usage statistics that are available to all parties (i.e. government, participants, and consumer) in both human readable and summarised “dashboards” and also in digitally readable formats to support analytics. Data providers and third parties in a sector should be required to provide such anonymised metrics regarding their operation in the marketplace.