

10 November 2023

Ms Claire McKay
Assistant Secretary
Consumer Data Right Policy and Engagement Branch
Market Conduct and Digital Division
Treasury
Langton Cres
Parkes ACT 2600
Via email: data@treasury.gov.au

Dear Ms McKay

RE: Screen scraping – policy and regulatory implications

The Financial Services Council (**FSC**) welcomes the opportunity to make comment on the above discussion paper.

FSC members utilise a variety of methods to gather data from their clients in a responsible and secure way. These methods may include screen scraping but may also include other methods such as through a more secure application programming interface (**API**), or through data supplied directly by a customer.

FSC members are very concerned about the safety and security of their customer's data, and therefore support banning screen scraping in Australia. However, the FSC also submits that the Consumer Data Right (**CDR**) is missing a significant amount of capability that would support a more robust system.

Further, the process for becoming an accredited data recipient within the CDR is, rightfully, strenuous and requires significant scrutiny. However, there is a streamlined process available to Authorised Deposit-Taking Institutions (**ADIs**) due to their regulatory overlay. Given the same overlay applies to many FSC members, it would be appropriate to extend this streamlined process to other appropriate institutions.

Increasing the variety of data available within the CDR along with improving access requirements may increase uptake of the scheme amongst consumers and will ultimately provide better outcomes.

Summary of Recommendations

1. The Government should look to incorporate its own data into the CDR to provide a more fulsome suite of data that is relevant to a customer's financial situation. Making the CDR more useful to both consumers and accredited data recipients.
2. The Government should expand the streamlined process for becoming an accredited data recipient that currently applies to ADIs to other holders of an AFSL as these organisations are subject to the same increased scrutiny as ADIs.
3. The FSC is supportive of a ban on screen scraping but recommends improvements to the use cases and data sets available under CDR.

About the Financial Services Council

The FSC is a peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services. Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, and financial advice licensees.

The financial services industry is responsible for investing more than \$3 trillion on behalf of over 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is one of the largest pools of managed funds in the world.

How Is Screen Scraping Currently Used?

Question 1. What screen scraping practices are you aware of or involved in?

1a) What is the scope and purpose of the data that is captured? Is the data that is captured only banking data, or does it include data from other sectors?

FSC members utilise customer data in many ways. This data may be captured through a screen scraping process, via customer supplied data, through an API, or some other means. One of the use cases for data (captured through screen scraping or otherwise) is in the provision of financial advice but data can be used in other contexts such as improving the customer experience for superannuation members.

Under Section 981B of the Corporations Act (Cth), a provider of financial advice must act in the best interests of their client by identifying the objectives, financial situation, and needs of the client. This must be done by interpreting information that has been disclosed by the client but also includes any information that may otherwise reasonably be considered relevant.

Data that is collected includes information about the customer's spending habits such as banking transaction information, as well as Commonwealth held personal data such as that collected by the Australian Tax Office (ATO) and Centrelink. This data, along with data about a client's investment portfolio, form a relatively complete picture of a person's financial situation.

Importantly, this data may be supplied by a client, or the firm may use a technological solution that collects the data on behalf of the customer. This adviser led data collection model allows for more fulsome collection of appropriate data in order to fulfil legislative obligations and provide better quality advice.

1b) What steps do consumers, screen scraping service providers and businesses using screen scraping take in the screen scraping process? What information is provided to consumers through the process?

Responsible data gathering practices require a strong consent model. This allows consumers to fully understand, via an agreement, what data is being sought on their behalf and what limitations there are on the collection of that data.

Many FSC members are regulated by the Australian Prudential Regulation Authority (APRA) and/or the Australian Securities and Investments Commission (ASIC) who place significant scrutiny on their regulated entities to provide robust security measures to protect against data breaches. This is on top of any binding rules that apply to members through Australian Privacy Law.

In addition, FSC members agree with the premise that when collecting client data, users have a right to be fully informed about what data is being collected and for what purpose. Further clients should be able to revoke the permission to view and collect data at any time.

1c) When is the consumer's data accessed as a one-off, and when is longer-term or ongoing access obtained? Where ongoing access is in place, how are consumers made aware of this and can they cancel access at a later point?

Financial advisers use on-going rights provided in other data gathering models to actively monitor the financial performance of a client. This is, of course achieved through strong consent model as outlined above. Responsible practitioners approach this on-going consent with the appropriate level of safeguards to ensure the data is used responsibly and only for the agreed upon purpose.

The Consumer Data Right

Question 8. What are your views on the comparability of screen scraping and the CDR?

8a) Can you provide examples of data that is being accessed through screen scraping that cannot currently be accessed using the CDR or vice versa?

Currently, the personal financial data that is available through the CDR is limited to data that consumers request to be pushed from their financial institution about their banking habits such as transaction and loan data.

The FSC submits that in order to improve uptake of CDR, the usefulness of the data to both organisations and clients' needs to be improved, this includes expanding the data that is available within the CDR framework.

One of the most significant pieces of data that is missing from the CDR is the Government's own data, such as Single Touch Payroll (**STP**), Tax File Number (**TFN**), and even Centrelink data. Allowing access to this data would allow financial advisers to provide better advice, and superannuation funds to provide better products both to individual members as well as to the membership as a whole.

For example, TFN and STP data could assist financial advisers by completing the picture of any other assets that a client had not declared to ensure the best possible financial advice is provided. In addition, Centrelink data also helps to assess a client's financial standing and eligibility for old age pension payments.

Other use cases for TFN and STP data include allowing for easier onboarding of superannuation customers, better matching for ATO reporting, and better and/or automatic adjusting of private pension payments.

Recommendation 1

The Government should look to incorporate its own data into the CDR to provide a more fulsome suite of data that is relevant to a customer's financial situation. Making the CDR more useful to both consumers and accredited data recipients.

8b) Are there particular restrictions related to data use and disclosure under the CDR that influence choices to continue using screen scraping, or vice versa?

As noted above, there is still a wide range of data not available through the CDR. The government should seek to significantly improve uptake of CDR. Uptake can be improved through the exploration of different use cases and the provision of a wider and more useful data set.

8d) Can you provide suggestions on how the CDR framework could be adjusted so that it is a more viable alternative to screen scraping?

One of the main barriers to access of the CDR, from an FSC member perspective, is the process through which organisations can become an accredited data recipient. While those wishing to access data should be thoroughly scrutinised, FSC members believe that setting excessive requirements to apply for status is detrimental to the overall effectiveness and uptake of the CDR scheme. The alternative of participating in the CDR through a third-party provider or trusted adviser exposes entities to significant costs.

There is currently a streamlined process in place for ADIs to apply to become an accredited data recipient. This streamlined process means they do not have to provide an independent assurance report to establish information security capability. The streamlined form is just one quarter the length of the non-streamlined version. The Explanatory Memorandum for the Exposure Draft Legislation that implemented this streamlined process noted that “ADIs do not need to provide this evidence because they are already required to meet APRA’s CPS 234 information security standard”.¹

Much like ADIs, FSC members are holders of Australian Financial Services Licenses (AFSL) meaning they are subject to significant scrutiny in order to receive and continue to hold said licence. In addition, many FSC members are subject themselves to APRA’s prudential standard CPS234 as well as the new prudential standard CPS230: Operational Resilience. Both of these standards require a high level of cyber and data security. It would therefore seem to be appropriate to extend the streamlined process to become an accredited data recipient to certain other organisations, such as those who hold an AFSL.

Recommendation 2

The Government should expand the streamlined process for becoming an accredited data recipient that currently applies to ADIs to other holders of an AFSL as these organisations are subject to the same increased scrutiny as ADIs.

Question 9. The Statutory Review recommended that screen scraping should be banned in the near future in sectors where the CDR is a viable alternative.

9a) How should the Government determine if the CDR is a viable alternative?

The determination as to whether CDR is a viable alternative should be a function of the useability of the CDR and take up by consumers.

Useability includes providing the appropriate level of data for a wide variety of use cases and providing reasonable incentive to organisations to becoming accredited data recipients by streamlining the process in appropriate circumstances. Encouraging a wider use case through this process will increase trust and uptake in the use of the CDR.

9b) What are your views on a ban on screen scraping where the CDR is a viable alternative?

FSC members agree that screen scraping ultimately presents a cyber risk and are overall supportive of a ban.

¹ Minister for Superannuation, Financial Services, and the Digital Economy. (2021). *EXPOSURE DRAFT EXPLANATORY MATERIALS: Competition and Consumer (Consumer Data Right) Amendment Rules (No. 2) 2021*. ([Link](#)) p. 14

FSC members also believe that the CDR can be a viable alternative and that ultimately a ban on screen scraping will increase the uptake of CDR among the Australian public.

Recommendation 3

The FSC is supportive of a ban on screen scraping but ultimately recommends improvements to the use cases and data sets available under CDR.

If you have any questions about the contents of this submission, please do not hesitate to contact me.

Yours sincerely,

Kirsten Samuels
Policy Manager, Superannuation and Innovation