Australian Telecommunications Alliance

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AUSTRALIAN TELECOMMUNICATIONS ALLIANCE SUBMISSION

To: Productivity Commission

Re: Harnessing data and digital technology

Interim Report

15 September 2025

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EXECUTIVE SUMMARY

The *Harnessing data and digital technology Interim Report* is meant as a first step to *"developing actionable recommendations that support governments in delivering meaningful and measurable reforms to boost productivity"*.[1]

We do not believe that an expanded data access regime is likely to fit this description, certainly not as much as other recommendations in the other Productivity Commission's interim reports, and, as argued in previous submissions, also not for the telecommunications sector.

We reject the notion that the expansion of data access in our sector necessarily has benefits associated with it.

The government-commissioned assessment of a proposed consumer data right (CDR) in the telecommunications sector by the firm Grant Thornton and associated consultation papers were unable to quantify benefits, or to address the technical and operational difficulties that would accompany the implementation of a CDR in our sector. They were also unable to articulate the additional benefits that would be derived in a sector that already provides large amounts of data to consumers under relevant regulation (including the *Telecommunications Consumer Protections Code*) and experiences, low barriers to switching providers and, as a result, high churn rates due to world-leading, near real-time number portability arrangements.

The telecommunications sector is characterised by healthy market competition and innovation, e.g. there have been substantially increasing market shares for smaller carriage service providers (CSPs) over the past 15 years, and prices for telecommunications services have fallen in real terms while simultaneously offering additional features, data volumes, and improved quality of service.

We are concerned that the costs of any expanded access regime, even if intended to be 'lighter touch' than the CDR as originally intended, would quickly outweigh any productivity benefits. The experience from the implementation of the CDR in the banking sector confirms that implementation costs and timeframes have been consistently and significantly underestimated. We understand that the energy sector shares similar experiences.

We are unaware of clear metrics of success (or failure) for the CDR in sectors where it has been implemented. It is illustrative to consider the 'explosion' of apps registered on the Apple App Store in its first three years of operation (without any supporting regulatory mandate): the App Store was launched in July 2008 with 500 apps available for download. In July 2011 this figure had increased to around 425,000 apps, with millions of downloads for those apps.[2] The development and uptake of apps is an example of consumers really 'buying into' innovative ideas because they (and the app developers) derive value from them. The CDR, at least thus far, does not provide this value, judging by the evidence provided.

[1] Productivity Commission. 2025 (p. 29). *Harnessing data and digital technology Interim Report*
[2] Wikipedia. App Store (as accessed on 27/08/2025)

1. AUSTRALIAN TELECOMMUNICATIONS ALLIANCE

The Australian Telecommunications Alliance (ATA) is the peak body of the Australian telecommunications industry. We are the trusted voice at the intersection of industry, government, regulators, and consumers. Through collaboration and leadership, we shape initiatives that grow the Australian telecommunications industry, enhance connectivity for all Australians, and foster the highest standards of business behaviour. For more details, visit www.austelco.org.au.

For questions on this submission, please contact Christiane Gillespie-Jones, c.gillespiejones@austelco.org.au.

2. INTRODUCTION

2.1 The ATA appreciates the opportunity to make a submission in response to the Productivity Commission's (PC) *Harnessing data and digital technology Interim Report* (Report).

2.2 At this stage, we will confine the majority of our feedback to high-level remarks on section 2 of the Report, *New pathways to expand data access*. For more detailed thoughts on an expanded data access framework in the telecommunications sector, i.e. the Consumer Data Right (CDR), please refer to our feedback in response to several consultations on the CDR available on the ATA website. (Also refer to footnote 11 for links to relevant submissions.)

2.3 We will briefly comment on other items of the Report in section 4 of our submission.

2.4 The ATA and its members stand ready to work with the PC and other relevant stakeholders to further progress practical reforms designed to enhance the productivity of the Australian economy. We look forward to providing additional feedback during the next stages of the Five Pillars Inquiries.

3. PROPOSED PATHWAYS TO EXPAND DATA ACCESS

3.1 DEFINITIONAL CLARITY

3.1.1 When considering expanded data access, it is important to clearly articulate the definition of and criteria for data that may potentially – if a number of conditions are being met – be in scope for such access.

3.1.2 Unfortunately, the Report lacks such clarity and, presumable unintentionally, uses three different terms and/or criteria to describe data for expanded access. For example:

1) *"When individuals and businesses can access and share data that relates to them, they can get more value from the products and services they use and more easily try new ones."*[3] [emphasis added]

2) *"Data about you should be available for you to use"*.[4] [emphasis added]

3) *"While the exact data that is accessible will vary on a case-by-case basis, it will need to meet three criteria.*

   i. *It is identified with the consumer or business.*

   ii. *It is held or controlled in digital form by the providers of the goods and services they use.*

   iii. *it is collected or created through their interactions with them."*[5]

[3] Productivity Commission. 2025 (p. 29). *Harnessing data and digital technology Interim Report*
[4] Ibid (p. 30)
[5] Productivity Commission. 2025 (p. 40). *Harnessing data and digital technology Interim Report*

3.1.3 A clear definition of what types of data could potentially be in scope is relevant: the current definition of personal information under the *Privacy Act 1988* (Act) is based on the concept of data that is 'about' an individual (subject to additional conditions being met). However, an amended definition proposed for a future revision of the Act rests on information 'relating to' an individual (subject to additional conditions being met). Importantly, the proposal to amend the definition of personal information comes against the backdrop of existing uncertainty of the status of technical identifiers and inferred information under privacy legislation. The Government noted:

> *"The Government **agrees in-principle** that amendments to the Privacy Act are needed to clarify that personal information is an expansive concept that includes technical and inferred information (such as IP addresses and device identifiers) if this information can be used to identify individuals (proposal 4.1)."*[6]

3.1.4 The third example cited in item 3.1.2 above in and of itself does not appear to be linked to a concept of personal information at all.

3.1.5 It is unclear whether the Report's language contemplates a connection to concepts of personal information within the Act.

3.1.6 **For future work as part of this Inquiry, we recommend a clear definition of data that could be, but is not necessarily, in scope for any expanded data access, and how that definition would relate to current and proposed definitions of personal information within the Act.**

3.2 EXPANDED DATA ACCESS IN THE TELECOMMUNICATIONS SECTOR

3.2.1 The different sectors of our economy are characterised by substantial differences in market and customer structures, services, products, supply chain arrangements, technologies used, and regulatory and legislative requirements, just to mention a few.

3.2.2 We, therefore, agree with the PC's assessment of *"the importance of designing data access schemes that have flexibility to account for the particular structural characteristics of different sectors across the economy."*[7]

3.2.3 We equally agree that any additional data access regimes ought *"to 'meet sectors where they are' and build from there."*[8]

3.2.4 We also welcome the Report's recognition of the intellectual property that 'value-added' and inferred data often represents and which, for this reason, ought to be excluded from any expanded access regimes.[9]

3.2.5 We understand that the Report is meant as a first step to *"developing actionable recommendations that support governments in delivering meaningful and measurable reforms to boost productivity"*[10] and, consequently, further work (including the final report) is likely to provide more detailed thinking. Nevertheless, we note the following:

3.2.6 Telecommunications providers, i.e. carriers and carriage services providers (C/CSPs), produce vast amounts of technical identifiers necessary to operate telecommunications networks and to provide services to consumers via such networks (e.g. telemetry data to route calls, texts and data, provide emergency calling and location services, etc.). They also produce 'usage data'. Such data arguably may 'relate to' an individual but may only meet the definition of personal information in certain circumstances. At this stage, it is unclear how the proposed revised definition of personal information in the Act would treat such data.

3.2.7 We contend that, even if this technical/usage data was considered personal information, it ought not be in scope for expanded access for the following reasons, including:

1) The data has very limited or no utility for consumers or third parties, e.g. most telemetry data or so-

[6] Australian Government. 2023 (p. 6). Government Response, Privacy Act Review Report
[7] Productivity Commission. 2025 (p. 38). *Harnessing data and digital technology Interim Report*
[8] Ibid (p. 38)
[9] Ibid (p. 40)
[10] Productivity Commission. *Five pillars of productivity inquiries* (as accessed on 22/08/2025)

called metadata.

2) The data is already being provided to consumers under law, e.g. as part of extensive requirements under the *C628 Telecommunications Consumer Protections Code* (TCP Code).

3) The cost of provision of the data is disproportionate to potential benefits derived by consumers. It is worth noting that the fact that telemetry or metadata is being generated and technically retrievable from a C/CSP's systems does not mean that the data is readily retrievable or accessible. For example, making such data available requires systems to extract the data, convert it into a format legible by standard computer programs, further convert it so that it is of use to consumers etc, all of which would require expensive expert resources and/or substantial capital investment.

4) The data is enhanced and, as a result, forms intellectual property of the C/CSP, e.g. the provider enhances the data with additional data (e.g. from third parties) to create a personalised scam vulnerability profile for a customer.

5) Provision of the data is prohibited or restricted under law, e.g. where the provision of data would necessitate revealing personal information of another individual or where the provision of data may be limited due to concerns for information about network security that could be derived from data.

3.2.8 Despite its high-level nature, we are concerned that, at times, the Report appears to suggest that expanded data access per se is beneficial and, consequently, its viability would be largely determined by the attendant costs. As we highlight above, this is not the case, i.e. the expansion of data access does not always have benefits associated with it.

3.2.9 We highlighted this and other issues – including issues pertaining to proposals for data access that do not target personal information – in previous submissions[11] in response to consultations on the CDR in the telecommunications sector. These consultations were based on mere assertions of benefits that would be derived from a CDR in our sector, for example additional innovation and personalised services. However, the government-commissioned assessment by the firm Grant Thornton (undertaken on a self-certified basis in lieu of a formal Regulation Impact Statement) and consultation papers were unable to quantify benefits or address the technical and operational difficulties that would accompany the implementation of a CDR in the sector. They were also unable to articulate the additional benefits that would be derived in a sector that already provides large amounts of data to consumers under relevant regulation (including the *C628: Telecommunications Consumer Protections Code*) and experiences, low barriers to switching providers and, as a result, high churn rates due to world-leading, near real-time number portability arrangements.

3.2.10 We also highlighted substantially increasing market shares for smaller CSPs over the past 15 years. At the same time, prices for telecommunications services have fallen in real terms while simultaneously offering additional features, data volumes, and improved quality of service. Both of these trends indicate healthy competition and innovation in the market.

3.2.11 In contrast to the (asserted) benefits, the assessment for the CDR in the telecommunications sector quantified minimum costs incurred by C/CSPs of $120 million[12] – a figure that we argued is likely to substantially underestimate the actual implementation costs if a CDR was to be pursued. The experience from the implementation of the CDR in the banking sector confirms that implementation costs and timeframes have been consistently and significantly underestimated. We understand that the energy sector shares similar experiences.

3.2.12 We agree that the current CDR arrangements in the banking and energy sectors are costly, complex, overly prescriptive, and cumbersome, for businesses and consumers alike.

3.2.13 We are unaware of clear metrics of success (or failure) for the CDR in sectors where it has been implemented. The Report notes that "*around 226,000 consumers across the Australian economy used the CDR. By mid-October, more than 300,000 ongoing data sharing arrangements were in place (ACCC 2024).*

[11] Refer to the following ATA submissions:
Consumer Data Right Sectoral Assessment Telecommunications Consultation Paper
Exposure Draft of the Consumer Data Right (Telecommunications Sector) Designation 2021 and associated documents
Consumer Data Right in the telecommunications sector CDR rules and standards design paper
Statutory Review of the Consumer Data Right

[12] This figure was (conservatively) derived from Grant Thornton estimates included in the Appendix B of the report *Regulatory Impact of the CDR in Telecommunications*

Use cases have grown to 197."[13] We make two observations with respect to these numbers:

1) Given an adult population of around 20 million in Australia, the above figures indicate that five and three years (respectively) from the commencement of the CDR in the banking and energy sectors, only a small fraction (just over 1%) of adult consumers has made use of the CDR.

2) Irrespective of the number of consumers having made use of the CDR, the number of sharing arrangements, or use cases, these numbers do not provide a good measure of the success as they do not indicate the net benefit that has been derived through the use of the CDR, sharing arrangements, or use cases.

3.2.14 While this may be an imperfect comparison, it is illustrative to consider the 'explosion' of apps registered on the Apple App Store in its first three years of operation: the App Store was launched in July 2008 with 500 apps available for download. In July 2011 this figure had increased to around 425,000 apps, with millions of downloads for those apps.[14] The development and uptake of apps is an example of consumers really 'buying into' innovative ideas because they (and the app developers) derive value from them. The CDR, at least thus far, does not provide this value, judging by the evidence provided.

3.2.15 Against this background, **we recommend the following consideration and actions prior to a further exploration of an expanded data access regime in the telecommunications sector**:

1) Perform a gap analysis of the intended objectives of the CDR and the extent to which those objectives may already have been achieved in the sector.

2) Analyse which steps would need to be taken to remedy any actual shortfalls in achieving those objectives.

3) Conduct a rigorous, evidence-based cost-benefit analysis. Do this for different data types/sets or measures and determine the incremental benefits that can be derived from any measures that target areas identified during the gap analysis.

4) If, at the conclusion of this analysis, it is found that the benefits of further measures would outweigh the attendant costs, it will be imperative to ensure that those measures are sufficiently focused on the achievement of the declared objectives, rather than the specific means of achieving those.

5) The general premise of implementing a CDR with the widest feasible dataset from the outset is, in our view, inappropriate. Instead, a sectoral CDR ought to commence with a small dataset for which government has demonstrated consumer benefits will outweigh the attendant costs and which can be implemented efficiently and in a timely manner by industry. Only then, and only once the expected benefits are indeed materialising, ought the CDR proceed to the implementation of further datasets, subject to a positive cost-benefit analysis of those datasets.

6) Even though future benefits of use cases of data may be uncertain, diffuse and difficult to quantify (as may be costs), appropriate scrutiny of the soundness of each case put forward must still be afforded.

7) Consider opportunity costs/investments – funds are finite. The telecommunications sector already generates returns below the cost of capital. The diversion of scarce capital to less productive causes leads to the Australian economy not benefiting from the most state-of-the art networks. We argue that limited funds in our sector would better be used for other purposes, in particular the deployment and upgrade of infrastructure. Doing so will be essential to maximise the opportunities that AI affords.[15]

8) Consider concurrent large-scale projects in the sector, e.g. the implementation of measures to prevent scams, network deployments/upgrades (e.g. 5G/6G) and resilience measures.

9) Establish clear metrics of success, periodically evaluate against those metrics, and take action in line with the findings, including abandoning mandated data access where it has proven not to meet the metrics of success.

[13] Productivity Commission. 2025 (p. 32). *Harnessing data and digital technology Interim Report*

[14] Wikipedia. App Store (as accessed on 27/08/2025)

[15] Also refer to our submission in preparation for the Economic Reform Roundtable.

4. OTHER COMMENTS

4.1 We welcome the suggested cautious approach to AI regulation, based on a gap analysis of existing regulation. We agree with the PC that excessive, burdensome AI regulation ought to be avoided, regulation be limited and be approached through a 'least cost lens'. We also agree with the PC that AI-specific regulations should only be considered as a last resort, and that where possible, existing regulatory frameworks should be adapted to mitigate the risk of overlapping and potentially contradicting regulation.

4.2 At this stage, we do not offer any feedback on the intersection of copyright legislation and AI, and the use of material subject to copyright in the training of AI models.

4.3 We welcome the Report's suggestion to explore an alternative compliance pathway to the Act. We concur that the current framework is often overly prescriptive and lacks a focus on outcomes. We welcome further discussion on the details of such an alternative pathway to compliance.

4.4 As previously highlighted in our submission to the *Privacy Act Review Report 2022*, we do not believe that a right to erasure is practical and, consequently, agree with the PC's assessment that this right ought not be pursued in revised legislation.

Ends

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