



Harnessing data and digital technology

What we heard

Inquiry paper



December 2025

Acknowledgement of Country



The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

About us

The Productivity Commission (PC) is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long-term interest of the Australian community.

The PC's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

For more information, visit the PC's website: www.pc.gov.au

© Commonwealth of Australia 2025



With the exception of the Commonwealth Coat of Arms and content supplied by third parties, this copyright work is licensed under a Creative Commons Attribution 4.0 International licence. In essence, you are free to copy, communicate and adapt the work, as long as you attribute the work to the PC (but not in any way that suggests the PC endorses you or your use) and abide by the other licence terms. The licence can be viewed at: <https://creativecommons.org/licenses/by/4.0>.

The terms under which the Coat of Arms can be used are detailed at: www.pmc.gov.au/government/commonwealth-coat-arms.

Wherever a third party holds copyright in this material the copyright remains with that party. Their permission may be required to use the material, please contact them directly.

An appropriate reference for this publication is:

Productivity Commission 2025, *Harnessing data and digital technology: What we heard*, Inquiry paper, Canberra

Publication enquiries:

Phone 03 9653 2244 | Email publications@pc.gov.au

Contents

Introduction	1
Enable AI's productivity potential	3
Views on using existing regulatory foundations and technology neutrality	3
Views on pausing rollout of mandatory guardrails	5
Other risks and externalities could be considered	6
Questioning productivity gains and trust	7
Copyright in the age of AI: finding the right balance	8
Effect on incentive to create	8
Views on a TDM exception	10
Lessons from overseas	12
Licensing options	14
Rightsizing data access	16
Expanding data access	16
The Consumer Data Right (CDR)	17
Alternative data access pathways	20
Outcomes-based privacy regulation	23
Focusing on outcomes and flexibility	23
Standard for a privacy duty	25
Right to erasure	26
Regulatory alignment	27
Enhance reporting efficiency, transparency and accuracy through digital financial reporting	29
Benefits of digital financial reporting	29
Barriers to digital financial reporting	30
Uptake of digital financial reporting	31
Implementing a mandate	33
Emerging reform ideas	35
Government data	35
Digital ID	35

Business-to-government reporting	36
Digitisation and data sharing	36
A. Overview of engagement	37
Consultation phases	37
Engagement methods	37
Other consultation	38
Participation	38

Introduction

In December 2024, the Australian Government tasked the Productivity Commission with undertaking five inquiries aimed at identifying priority reforms and developing practical, implementable recommendations to boost Australia's productivity growth.

As part of the terms of reference, the PC was asked to engage widely and consult appropriately, including by inviting public submissions.

For this inquiry into *Harnessing data and digital technology*, we sought to understand how Australia can harness the consumer and productivity benefits of data and digital technologies, while managing and mitigating any risks. We looked at the role for government in setting the rules of the game to foster innovation and ensure that Australians reap the benefits of the data and digital opportunity.

We focused on five priority reform areas:

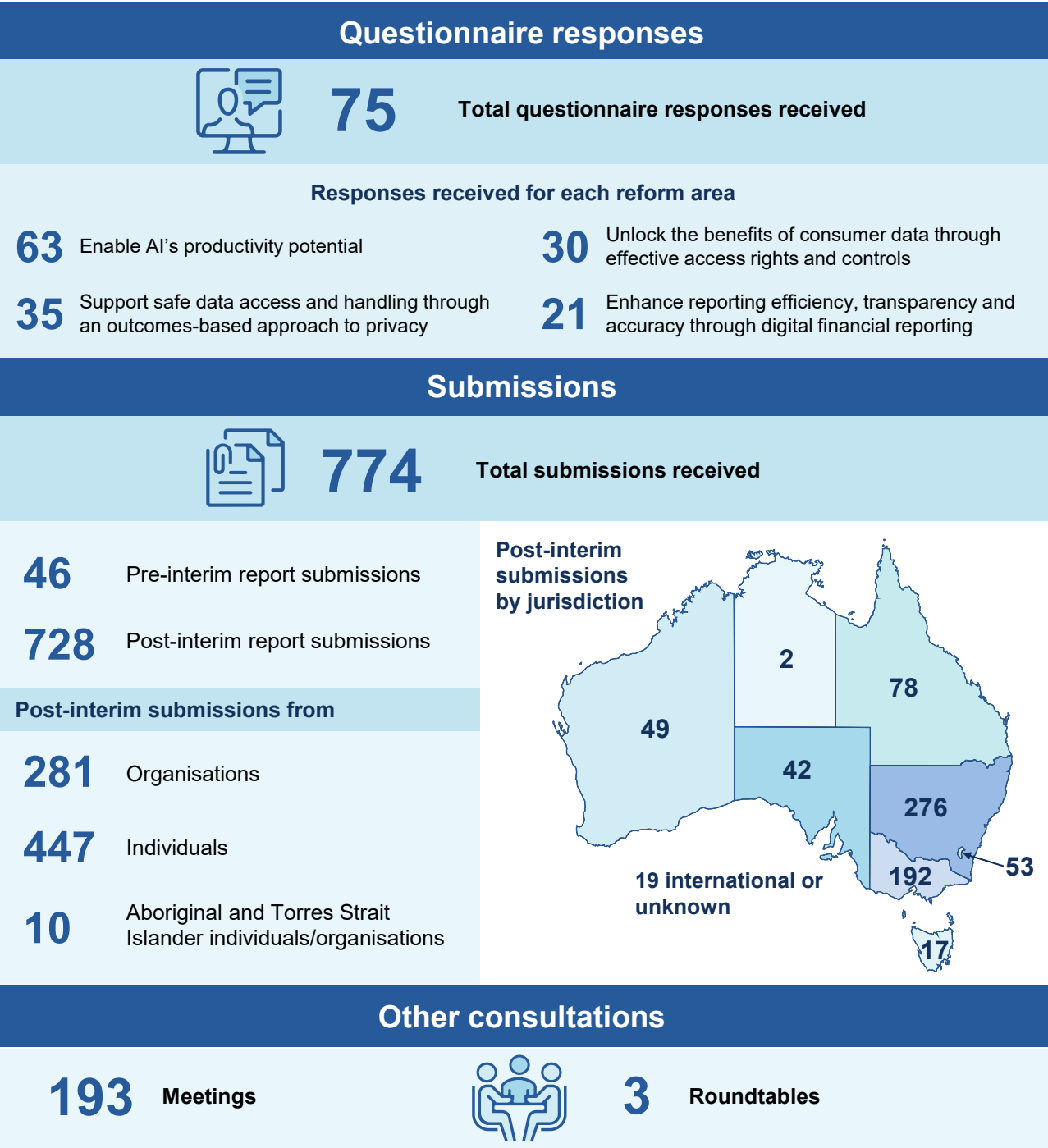
- enable AI's productivity potential
- copyright in the age of AI: finding the right balance
- rightsizing data access
- outcomes-based privacy regulation
- enhance reporting efficiency, transparency and accuracy through digital financial reporting.

This what we heard paper summarises the perspectives of participants who engaged with the inquiry through an online questionnaire and written submissions – a summary of key statistics from the consultation process is provided in figure 1. It seeks to reflect the written feedback received, organised by key themes across the reform areas explored in the inquiry.

All questionnaire responses and submissions were read and considered by staff. AI tools were used in some cases to help identify themes and group perspectives from these responses. Staff reviewed all AI-generated outputs.

We thank all participants who have engaged with the inquiry process.

Figure 1 – Participation in consultation process

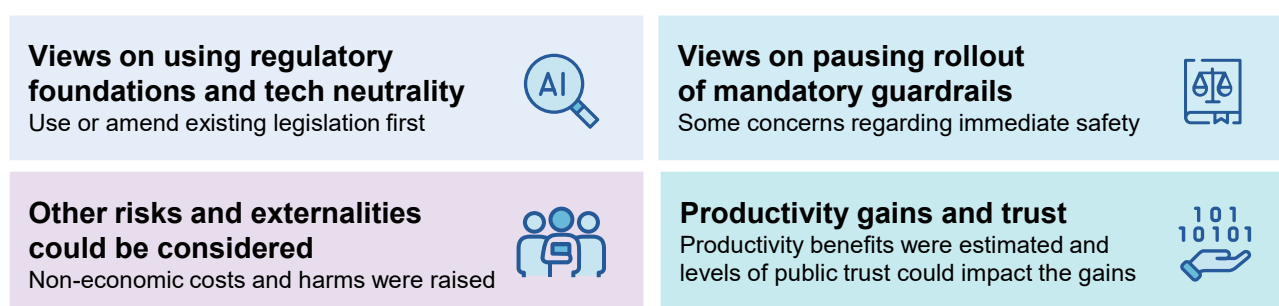


Enable AI's productivity potential

The adoption of data and digital technologies like artificial intelligence (AI) has the potential to transform the economy and underpin a new wave of productivity growth. To realise this growth, government regulation needs to manage and mitigate the risk of harm without distorting the incentives to adopt and develop the technology.

Over the course of this inquiry we sought feedback on how AI regulation can help achieve this balance, such as by taking an outcomes-based approach to AI regulation, using our existing laws and regulatory structures to minimise harms and introducing technology-specific regulations only as a last resort. We also sought feedback on whether the Australian Government should implement mandatory guardrails on high-risk applications of AI.

The key themes that emerged from consultation are depicted in the following figure.



Views on using existing regulatory foundations and technology neutrality

Some participants supported using existing regulations in the first instance to deal with harms arising from the application of AI.

The AIIA strongly supports the Commission's blueprint for AI regulation that builds on existing legal foundations rather than starting anew. (Australian Information Industry Association (AIIA), sub. 301, p. 2)

AHEIA welcomes the Productivity Commission's prudent and proportionate draft recommendations regarding the regulation of Artificial Intelligence (AI) set out in Draft recommendations 1.1 to 1.3. (Australian Higher Education Industrial Association (AHEIA), sub. 358, p. 1)

Submissions also supported using gap analysis – a central focus of the PC's blueprint for AI regulation – to identify potential regulatory gaps arising from the use of AI before considering new laws.

[T]he Australian Government should continue, complete, publish and act on ongoing reviews into the potential gaps in the regulatory framework posed by AI. We agree that these reviews should consider: a) the uses of AI; b) the additional risk of harm posed by AI (compared to the status quo) in a particular use case; c) whether existing regulator frameworks address these risks potentially with improved guidance and enforcement; and d) if not, how to modify existing regulation to address these risks. (Australian Institute of Company Directors, sub. 563, p. 16)

A gap analysis would identify where existing laws may be inadequate to assure safe, responsible, and secure applications of AI, and investment in uplifting Australia's AI capability. Solutions to

identified gaps should be framed in technology-neutral terms. (The Law Council of Australia, sub. 599, p. 5)

AIDH agrees with the idea that we don't need to create new laws when existing law is appropriate or just needs to be amended. (Australasian Institute of Digital Health (AIDH), sub. 516, p. 9)

MTAA agrees that it is prudent to complete the current AI rules gap analysis and ensure that clear gaps are identified before any change[s] are implemented. MTAA agrees that AI-specific regulations are not required where existing regulatory frameworks are suitable or able to be adapted to suit (Medical Technology Association of Australia (MTAA), sub. 589, p. 1)

We strongly support all three draft recommendations on AI regulation. Gap analysis should be undertaken as a priority.

In the vast majority of instances, existing legislation and regulation already addresses the legal requirements to manage AI across the economy and society. We agree that AI-specific regulation should be a last resort as it is likely to stifle the benefits of AI and leave Australia in a less competitive position to our global peers. (Business Council of Australia (BCA), sub. 488, p. 2)

Some entities expressed concerns about the reliance on existing legal frameworks, which they deemed unfit to deal with aspects of AI technology.

[T]he Productivity Commission's (PC) draft recommendations on Artificial Intelligence (AI) are fundamentally flawed because they apply a generic regulatory framework that is agnostic to technology capability and that implicitly treats *all* AI as a conventional technology. Whilst principles such as conducting 'gap analyses' and prioritising 'technological neutrality' are standard regulatory best practice and could be appropriate for some AI technologies, their application here ignores the unique and exceptional nature of *advanced* AI, making the framework unsuitable and potentially unsafe. (Gradient Institute, sub. 401, p. 3)

EFA submits that this approach is a dangerous abdication of responsibility. Australia's current regulatory system is already considered 'unfit-for-purpose' to respond to the distinct and novel risks posed by AI. To propose amending a broken system is to invite continued failure and risks potentially catastrophic outcomes ... EFA asserts that AI-specific regulation is not only necessary but is an urgent national priority for which the 90% of Australians appear to be in support. (Electronic Frontiers Australia (EFA), sub. 288, pp. 8–9)

Views on pausing rollout of mandatory guardrails

Stakeholders expressed a range of views on the idea of pausing implementation of mandatory guardrails until regulatory gap analysis is completed. Some examples of concerns raised are shown below.

Prompt action to tackle AI harms	Some groups face greater AI-related risks	Guardrails could align with research and the EU
“Delay invites the very uncertainty that stifles investment and puts Australia on track to repeat past mistakes, where regulatory inaction allowed harm to become deeply embedded before meaningful intervention occurred (GSA, sub. 329, p. 12)” “The pace of AI development demands prompt action. Waiting for perfect information while capabilities advance rapidly could leave Australia vulnerable to significant economic and social disruption (Laura Leighton, sub. 368, p. 2)”	“All AI systems interacting with children should be considered high-risk due to the lack of transparency and predictability in their outputs (ARC Centre of Excellence for the Digital Child, sub. 379, p. 5)” “We recommend that guardrails specifically addressing child safety be prioritised for immediate implementation, while the broader rollout of additional guardrails can proceed in a staged manner pending further analysis (ICMEC Australia, sub. 416, p. 4)”	“As someone who has recently led research on Australian attitudes toward AI risks, I can provide evidence that this recommendation is misaligned with both public sentiment and expert analysis (Michael Noetel, sub. 171, p. 1)” “Australia must abandon the Productivity commission’s “last resort” approach to AI regulation and instead develop and pass AI-specific legislation that bans unacceptable AI use cases and imposes mandatory, enforceable obligations on high-risk AI systems (EFA, sub. 288, p. 2)”

GSA: Global Shield Australia; ICMEC Australia: International Centre for Missing and Exploited Children Australia; EFA: Electric Frontiers Australia.

Some participants were of the view that mandating guardrails is necessary to enforce existing legal frameworks.

As recognised by the Productivity Commission, technology-neutral law already applies to AI, including high-risk AI. There is, however, a need to achieve cross-sectoral clarity and consistency on a range of AI-related concepts.

Relying *solely* on reforms to existing laws will not be sufficient to address shared, intersecting harms associated with high-risk AI, and it is unlikely that a sector-specific approach to reform would achieve a coherent and certain regulatory response. There is also a risk of inconsistencies across legal regimes, and the potential for unnecessary complexity, fragmentation and confusing overlap. (Human Technology Institute (HTI), sub. 344, p. 20)

Part of benefit and purpose of the Mandatory Guardrails proposal is to address these issues in high-risk scenarios/use cases, by:

- Allocating responsibility across the AI supply chain;
- Establishing risk management processes to identify and mitigate risks (simultaneously addressing risks and creating a paper trail enabling companies to show how they are meeting legal standards established by existing law);
- Requiring transparency towards end-users;
- Establishing processes for challenging AI;
- Requiring transparency across the supply chain; and

- Record-keeping. (ARC Centre of Excellence for Automated Decision-Making and Society (ADM+S), sub. 412, p. 10)

Some industry bodies did support pausing implementation of the mandatory guardrails, emphasizing the need for flexibility.

We support the recommendation to pause the initiative to make mandatory the guardrails for high-risk AI. We are concerned that the mandatory guardrails in their current form appear disproportionate and require an unachievable compliance uplift for businesses of all shapes and sizes across Australia. (Australian Chamber of Commerce and Industry (ACCI), sub. 424, p. 2)

The MCA agrees that steps to implement proposed mandatory guardrails for high-risk AI should be paused until a comprehensive gap-analysis is completed. The PC rightly emphasises that poorly designed regulation, or the mere threat of it, can dampen investment in emerging technologies like AI. (Minerals Council of Australia (MCA), sub. 590, p. 16)

Other risks and externalities could be considered

Some participants suggested that the societal and environmental costs and harms associated with AI adoption could be significant.

[T]he interim report places disproportionate emphasis on the potential benefits without adequately addressing the emerging risks and harms that AI poses to mental health and wellbeing. (Beyond Blue, sub. 484, p. 1)

The Productivity Commission's final recommendations should be made by reference to a thorough articulation and considered assessment of AI-related risks of harms. Risks to be considered include:

- implications for individual human rights and legal rights (for example, intellectual property rights, employment rights)
- implications for individuals' physical and mental safety
- adverse impacts to groups of individuals or collective rights of cultural groups
- costs to the broader Australian economy
- impacts on Australian workforces
- risk to Australia's liberal-democratic system
- risks to the environment
- upside risks or likelihood to bring relevant public benefit. (HTI, sub. 344, p. 6)

I would also like to oppose the Productivity Commission's recommendation that the government take a hands-off approach to regulating (or rather, not regulating) GenAI on an environmental basis. GenAI requires huge amounts of electricity and water to function. It also has a disproportionately negative impact on marginalized communities. (Amara Cavahlo, sub. 72, p. 2)

Generative AI systems like OpenAI's ChatGPT use enormous quantities of fresh water to cool their processors and generate electricity. A lawsuit in West Des Moines, Iowa, revealed that OpenAI's data-centre cluster used approximately 6% of the district's water supply in July 2022. (Anonymous, sub. 441, p. 5)

The Commission's report offers nothing for working people and contains no plan to make sure that workers are at the centre of the widespread AI uptake. (Australian Council of Trade Unions (ACTU), sub. 575, p. 11)

The one reference to unemployment chillingly makes the observation that the societal safety net for unemployment assistance would be available for individuals without even a discussion of the impact on the community and individuals of a potential unemployment shock with large scale disruption in the labour market. (National Tertiary Education Union (NTEU), sub. 444, p. 4)

Questioning productivity gains and trust

Some participants expressed scepticism about the magnitude and certainty of the projected productivity benefits. And some participants stated that neglecting robust regulation would undermine the necessary community trust required for successful AI adoption. Examples of submissions that raise these points are shown below.

Questioning productivity gains and trust

“Australians do not trust AI, and that lack of trust is slowing AI adoption. Continued government inaction and mounting AI risks, will likely reduce trust further. The PC should either recommend credible trust-building measures that would remove trust as a barrier or revise down its forecasted AI adoption rates to reflect these non-economic factors. (Good Ancestors, sub. 169, p. 10)

“AI-driven productivity improvement hinges on several key preconditions. These include regulatory certainty, public trust in AI products and services, and responsible AI adoption practices, including meaningful engagement with workers (HTI, sub. 344, p. 5)

“[C]urrent evidence, based on independent research with end users and firms across a range of sectors suggests that these projected productivity gains from AI may be overstated in the short to medium term, and challenging to secure. (ADM+S, sub. 412, p. 7)

“While organisations are adopting AI, recent research shows that only 36% of Australians are willing to trust AI ... The relatively low level of trust has significant impacts on Australians' willingness to accept and approve of the use of AI in society (ACMA, sub. 498, p. 3)

ACMA: Australian Communications and Media Authority.

Copyright in the age of AI: finding the right balance

Australian copyright law requires artificial intelligence (AI) developers to obtain licenses before using copyrighted materials to train their models. Some have argued that this requirement makes Australia a less attractive jurisdiction for AI training, lowering the likelihood that Australia captures benefits that domestic AI training may provide.

Over the course of the inquiry, the PC sought feedback on:

- whether reforms to Australia's copyright regime (including licensing arrangements) are required to facilitate AI training
- the costs, benefits and risks of introducing a text and data mining (TDM) exception in the *Copyright Act 1968* (Cth).

The views expressed in submissions can be broadly grouped into four themes.

Effect on incentive to create

A TDM exception could reduce creative incomes and the incentive to create.



Views on a TDM exception

Views on introducing commercial and non-commercial copyright exceptions.



Lessons from overseas

Some jurisdictions which have introduced copyright exceptions have faced difficulties.



Licensing options

Voluntary licensing can maintain incentives to create and provide access to training material.



Effect on incentive to create

Most submissions opposed the introduction of a TDM exception. Many raised concerns that a TDM exception would reduce creative sector incomes and the economic incentive to create.

A TDM exception will have a chilling effect on the creative industry and will stifle innovation within the creative and media sector, making the creation of new Australian content financially unviable. (News Corp Australia (NCA), sub. 475, p. 15)

Being able to license and use my work within the boundaries of ... [copyright] laws allows me to make an income from the work I create. Undermining those laws by granting exceptions to develop AI technology is extremely detrimental to my ability to work and make income off any work I have created. (Daniel Gray-Barnett, sub. 582, p. 1)

Allowing AI companies to freely mine copyrighted material for model training without seeking permission or paying for use undermines the fundamental rights and business models of news publishers, writers and artists. Widespread access to news content for AI training could enable machines to generate summaries, articles or feeds that directly compete with publishers, reducing audience numbers and revenue streams. (Digital Publishers Alliance, sub. 384, p. 6)

A TDM exception would transfer assets from the Australian creative sector to the overseas tech sector, which will erode the earning capacity of writers, contribute to job displacement, and be a disincentive to investment in human creation. (Australian Society of Authors, sub. 478, p. 14)

Allowing free and unfettered access for technology companies to reproduce and exploit valuable music content would effectively extinguish the value of copyright and undermine the economic survival of the creative industries. (Australian Recording Industry Association and Phonographic Performance Company of Australia (ARIA and PPCA), sub. 489, p. 1).

Economic vulnerability of Australian creatives

Participants highlighted that average incomes associated with creative endeavours are low in Australia.

The rate of attrition that I have seen since I entered the screen industry is gobsmacking ... It is hard enough to make ends meet as a creative already. We cannot allow what little income creatives earn to be siphoned-off by the billionaire owners of the largest companies in the world. (Word Ninjas, sub. 497, p. 1)

Books play an enormous and fundamental role in childhood and yet ... the average income of an Australian children's author, according to the Australia Society of Authors, is \$26,800. These are the people multi-billion-dollar tech companies want to steal from. (Anonymous, sub. 419, p. 1)

Recent research by Music Australia reveals that the median income for Australian artists is just \$14,700, significantly below the tax-free threshold of \$18,200. This alarming statistic demonstrates that the majority of Australian musicians are already struggling to achieve basic financial sustainability ... Introducing copyright exemptions that would allow AI companies unrestricted access to musical works would only exacerbate this income crisis, potentially pushing many professional artists below viable earning thresholds and forcing them to abandon their careers. (Anonymous, sub. 467, p. 1)

Data from the National Survey of Australian Book Authors shows that the average Australian writer earns just \$18,200 a year for their work ... A vital component of writers' tiny salaries is made up of copyright royalties. (Bailey Perkins, sub. 279, p. 1)

And some contrasted this with the size of and resources available to large technology companies.

It's not like Meta can't afford to pay for data ... While Meta and its fellow tech giants turn profits in the hundreds of billions each year, the writers whose work they are feeding into their AI models are earning salaries below the poverty line. (Anonymous, sub. 441, pp. 3–4)

In 2022 Australian authors on average earned \$18,200 from their creative work (according to the 2022 National Survey of Australian Book Authors). By contrast, in 2025, Microsoft, Alphabet and Meta recorded global earnings of \$190.82 billion, \$216.83 billion and \$81.23 billion (USD) respectively. (Anonymous, sub. 388, p. 1)

Effects on culture and future AI development

Several participants considered that a reduced economic incentive to create may negatively affect Australian culture and the development of AI models over time. Examples of concerns are below.

Effect on culture	Effect on future AI development
“ [A TDM exception] would undermine Australia’s copyright framework and expose the sector (and the nation) to significant cultural and economic harm. (APA, sub. 523, p. 3) ” “ Unnecessary downgrades to Australia’s copyright laws risk the devaluation of Australia’s \$8.78 billion music industry and the irreplaceable cultural value of human creativity. (ARIA and PPCA, sub. 489, p. 4) ” “ Authors feel they are losing rightful compensation for exploitation of their work, but also something even more fundamental. What is being lost is the recognition that we need writers who produce our national culture, “the archives of our collective imagination.” (Australian Society of Authors, sub. 478, p. 7) ”	“ [AI models] rely on human-made works as the primary fuel for training... If a broad TDM exception is permitted, individual creation would stifle and eventually slow the progress of AI technologies. (Getty Images, sub. 262, p. 3) ” “ If humans are no longer incentivised to continue to produce new highly specialised creative content, there is no future creativity and innovation to feed AI. (Creative Australia, sub. 432, p. 4) ” “ [A TDM exception would] reduce the incentive for talented people to pursue a career in music, decreasing the quality of cultural innovation over time ... [and] AI companies would have less human-created material to train on going forward. (Sony Music Australia, sub. 429, p. 5) ”

APA: Australian Publishers Association; Sony Music Australia: Sony Music Entertainment Australia Pty Ltd.

Views on a TDM exception

Views on a commercial TDM exception

In the interim report, the PC sought feedback on the costs, benefits and risks of introducing a TDM exception. Some participants advocated for the introduction of a broad copyright exception and pointed to some of the potential benefits this may have for the Australian economy.

The TCA supports amending the Copyright Act 1968 (Cth) to allow for the training and fine tuning of AI models in Australia ... Reforms could include a fair dealing exception for text and data mining (TDM). The TDM exception should cover commercial activity—that is where the most significant benefit will be realised not only in terms of innovation and productivity growth, but also in ensuring that our country’s unique contexts, values and experiences are embedded in next generation AI tools. (Tech Council of Australia (TCA), sub. 534, pp. 12–13)

Microsoft supports clarifying the operation of the Copyright Act 1976 (Cth) [sic] in relation to digital and AI technologies ... by introducing clear Text and Data Mining (TDM) ... [A recent UK study] found a commercial TDM exception to have broader impacts on increasing investment in other sectors including scientific and academic research, legal and financial analysis, and healthcare and pharmaceuticals. (Microsoft, sub. 574, p. 4)

The Productivity Commission should recommend that the Government introduce a clear statutory exception that applies to both commercial and non-commercial AI training conducted on lawfully accessed materials. Such an exception would provide businesses with the certainty to invest in AI development, strengthen Australia’s competitiveness, and ensure that copyright holders’ interests are preserved through lawful access safeguards. (Business Software Alliance, sub. 337, p. 6)

In Australia, uncertainty exists across several domains, including ... the lack of a text and data mining exception under Australian copyright law ... jurisdictions perceived as overly burdensome or uncertain are likely to see capital and talent flow towards those seen as more dynamic and supportive of innovation. (Google Australia and New Zealand, sub. 32, pp. 4–5)

The BCA recommends the introduction of TDM exceptions for commercial and non-commercial use, with a non-legislated opt-out provision ... If the right TDM settings are in place, Australia could attract serious investment in data centres and build world-class AI models here at home. (Business Council of Australia, sub. 488, pp. 2, 4)

Views on a non-commercial exception

Some participants reflected upon the importance of non-commercial AI research and development in the research and education sectors.

As Australia's national science agency, CSIRO wishes to highlight the particular importance of Australia's national interest in seeking to stay at the forefront of AI understanding, research and development ... in order to develop and maintain sovereign Australian AI capability and to enable local innovation and productivity enhancements, the law should enable Australian scientific researchers to conduct research into AI and research into the use of AI to support other scientific disciplines. (Commonwealth Scientific and Industrial Research Organisation (CSIRO), sub. 322, p. 2)

It is critical to Australia's vision for a modern education system that Education Bodies are able to undertake activities such as training or fine-tuning AI models. (Copyright Advisory Group – Schools (CAG Schools), sub. 517, p. 22)

They outlined issues with existing exceptions and statutory licenses.

In Australia, the existence in the Copyright Act of the fair dealing exception for research or study suggests that Australia already has a policy intention to provide for a suitable exception to permit scientific research. However, this exception is not fit for purpose ... In particular, there are a number of areas of significant uncertainty in seeking to apply this fair dealing exception to the case of AI research projects. (CSIRO, sub. 322, p. 2)

The overly broad scope of the [education-related] statutory licences means that ... Australian schools pay licence fees to use free publicly shared online materials for which there is no expectation of payment, in circumstances where schools in jurisdictions such as the United States, Singapore, the UK and EU can rely on a public interest exception to use these materials for free ... Without appropriate exceptions, there is a real risk that Australian schools will be locked out of the AI transformation altogether because our education system simply won't be able to afford it. (CAG Schools, sub. 517, pp. 21–22)

And they supported the introduction of new copyright exceptions to enable non-commercial AI development and research.

CSIRO submits that Australia's interests will be better served by copyright law having a specific exception that permits research with and on AI systems. (CSIRO, sub. 322, p. 4)

CAG Schools recommends, at a minimum, introducing a new non-commercial TDM exception into the Copyright Act that clearly applies to educational uses ... This would mean that Education Bodies could develop both national and local, education-specific AI tools and AI-enabled technologies. (CAG Schools, sub. 517, p. 26)

Lessons from overseas

The PC's interim report discussed AI-related copyright exceptions in comparable jurisdictions. Several participants pointed out that many of the exceptions enacted in other jurisdictions were not originally intended to cover AI training and were introduced prior to the significant rise in public awareness of AI that followed the release of ChatGPT in late 2022.

It would be an unwise policy for Australia to rush to introduce a TDM exception when other jurisdictions are not doing so. Since ChatGPT launched in November 2022, no government has passed a TDM exception and all extant TDM exceptions predate ChatGPT. (Australian Film/TV Bodies, sub. 541, p. 8)

The Report fails to distinguish in its summary of the global TDM position that the UK, EU and Japanese exceptions were all created before the advent of generative AI training and not designed with these processes in mind. (Hachette Australia Pty Ltd, sub. 306, p. 5)

We note that the Interim Report lists several jurisdictions where TDM exceptions have been implemented. Many comparable jurisdictions, including parts of the EU, the US (through fair use), Japan, and Singapore, have some form of TDM exception or similar doctrine. The consequent claim is that failing to align with these international trends could make Australia less attractive for AI talent and investment, causing it to lag in AI take-up and potentially undermine its AI sector. But we also note that these exceptions generally pre-date the rise of the current generation of generative AI tools, which require large amounts of data to train. The mere existence of these exceptions is not determinative, because the rise of generative AI has qualitatively changed the environment. (Venture Insights Pty Ltd, sub. 178, pp. 4–5)

Others considered that introducing a TDM exception may not result in greater levels of AI training in Australia, pointing to other countries' experiences.

Several jurisdictions around the world have already adopted TDM exceptions, including the EU, Japan, and Singapore. This has not led to an improvement in their competitive positions through increased AI investment. All they have achieved is undermining their creative industries. Aligning Australia with these jurisdictions would not improve Australia's competitive position either. (NCA, sub. 475, p. 3)

Countries such as Japan and Singapore, which have introduced more permissive TDM regimes, have not attracted proportionally higher levels of AI investment. This shows that AI companies are not simply looking for free access to content. (International Authors Forum, sub. 267, p. 2)

There is also no reason to believe that adopting a TDM exception would in any way incentivize domestic AI industries or lead to a renaissance of AI development, as evidenced by the seeming lack of thriving AI industries or international investment in countries such as Japan and Singapore that have adopted extremely broad TDM exceptions with limited safeguards and no ability to opt-out, while the European Union's TDM exception has also seemingly not spurred AI innovation noticeably. (News/Media Alliance, sub. 268, p. 7)

Several participants also put forward that the application of the United States's fair use copyright exception in the context of AI training is unclear.

The argument that Australia's copyright regime is more restrictive than those in other jurisdictions has been advanced as a reason for change by such companies. This is not a credible argument: no new broad exception for AI training using copyright-protected works has been introduced in the US, for example, and it is clear from recent judgments in the US courts that reliance on the fair

use defence for AI model training is a complex issue, far from being settled. (Oxford University Press, sub. 539, pp. 2–3)

While the United States has a fair use doctrine, versus fair dealing provisions, no consensus has been reached on whether AI training uses is in fact fair use, with courts reaching different conclusions ... While the issue is clearly far from settled and there is a high degree of uncertainty on whether fair use will protect the actions of AI companies, the United States is the top destination for private investment (between 2013–2024, over \$470 billion, over \$300 billion more than the next placed nation, China), suggesting the lack of clarity over their use of copyrighted materials is not hindering the development of their domestic AI industry. (ARIA and PPCA, sub. 489, p. 21)

In the US, the concept of ‘fair use’ on AI training remains unsettled and is the subject of high profile, protracted and expensive litigation. There have been two early lower court opinions that diverged dramatically from one another in their approach to the analysis. There are still a number of pending cases that are likely to give rise to further fair use analysis, with inevitable appeals, likely as high as the US Supreme Court eventually, before the issue is definitively decided. (Penguin Random House Australia Pty Ltd, sub. 477, p. 5)

A lack of support for opt-out models

The European Union has enacted a TDM exception that allows the general use of copyright works for TDM (including for commercial purposes), provided that the rights holder has not opted out. Several participants noted difficulties the European Union has had with implementing this model.

Some have proposed a TDM exception with an ‘opt out’ mechanism, but it is clear that opt-out is not working in practice, particularly for AI training. This is partly to do with process and scale, and that it is difficult for small and individual rightsholders to implement. (Copyright Agency, sub. 473, p. 2)

The opt-out mechanism has proven to be a complete failure in practice ... There are currently no generally recognised standards or protocols for machine-readable opt-outs, meaning rightsholders have no consistent way to reserve their rights. (Nik Samoylov, sub. 68, p. 4)

The opt-out mechanism is a key element of the EU’s text and data mining exception, as it serves as a check for copyright owners, providing them with agency to choose whether their works can be used as part of a web scraping activity. However, no single protocol or universal standard has been agreed on, meaning the process for opting out is fragmented and inefficient. (ARIA and PPCA, sub. 489, p. 20)

And other participants suggested it would be unproductive and burdensome on rights holders to require them to opt out.

International experience, particularly in the EU, shows that these systems [with opt-out mechanisms] create heavy burdens for publishers while failing to prevent unlicensed use of works by AI developers. (IPA, ACP, BOEV, FEP, UK PA, SNEL, SBPA, STM, SNE, sub. 468, p. 5)

An opt-out condition subverts the foundational rule of copyright law that a copyright owner has the right to choose whether to authorize others to use their work. Copyright owners should not be required to take affirmative action to signal others to refrain from using their works. (Copyright Alliance, sub. 502, p. 6)

We are also not supportive of ‘opt-out’ strategies implemented by AI businesses as ways to circumvent copyright permissions. Opt-out approaches are impractical and put the onus of implementation unfairly and unproductively in the hands of copyright owners. (Image Makers Association Australia, sub. 385, p. 12)

Licensing options

Several participants highlighted that voluntary licensing markets are already emerging and can scale up to provide AI developers with ready and efficient access to training material, while also compensating creators for their work. For example:

Voluntary licensing is emerging and scalable

“Licensing markets are already providing workable, lawful, and scalable solutions for AI. In recent years, the number of agreements between AI companies and individual creative industry stakeholders has steadily increased. (International Federation of Reproduction Rights Organisations, sub. 378, pp. 5–6)”

“The licensing markets for copyrighted works and licensing markets for AI use of copyrighted works, continue to flourish. Grounded in and supported by copyright law, these free-market license agreements have enabled Generative AI (“GAI”) developers to use rich, large, and quality datasets for AI training. (Copyright Alliance, sub. 502, p. 3)”

“There is no challenge to direct licensing at scale. Rightsholders across the creative industry have a track record of successfully licensing copyrighted works at scale; e.g. for the streaming market. Indeed, legitimate licensing markets are now developing globally. (The Independent Music Publishers International Forum, sub. 254, p. 5)”

Some participants also expressed the view that licensing would preserve creatives’ economic incentives to produce new content.

We advocate a licensing-based model that requires AI developers to obtain permission and pay fair value for copyrighted content, maintaining the incentive for original content creation. (Man of Many, sub. 339, p. 2)

Absent the ability to make a return on their investment, the incentive for rights holders to continue these essential activities also diminishes ... Licensing enables creators and copyright owners of high-quality copyrighted works to realize a benefit from their intellectual endeavours and from their investment in the creation, curation, and dissemination of such works. (Association of American Publishers, sub. 501, pp. 3–4)

Licensing preserves the incentive to invest in new authors, classroom tools, and scholarly resources. (APA, sub. 523, p. 5)

Views on compulsory licensing

There was little support for implementing a compulsory licensing regime from either the technology or creative sectors.

[Compulsory licensing would] deprive a rightsholder of control of the work, including the opportunity to negotiate a price for the use of content but it also deprives a rightsholder of negotiating additional conditions on the use. For example, many licensing deals cover matters such as duration, attribution, reversion, conditions and other restrictions. (Australian Film/TV Bodies, sub. 541, p. 8)

Introducing a statutory collective licensing model for AI training would be highly prejudicial, legally and commercially, to all in our sector. (The International Confederation of Music Publishers, sub. 398, p. 17)

Others pointed out that compulsory licensing may force licensing upon some rights holders who do not want their work to be used to train AI models.

We consider that universal compulsory licensing (i.e. where copyright owners are obliged to participate in a licensing scheme) is not appropriate for training AI models ... some copyright owners may not wish to license their content (e.g. for moral rights concerns). (Screenrights, sub. 352, p. 8)

Some rightsholders would want to withhold permission for highly valuable IP, or sensitive IP that needs careful control. A compulsory licence would take away these rights from a copyright owner. (Australian Film/TV Bodies, sub. 541, p. 8)

And the Tech Council of Australia argued that the costs of operating a compulsory license may be high.

Given the scale of works that can be used in AI training, compulsory licensing regimes have high administrative burdens and are unlikely to result in meaningful payments to creators. (sub. 534, p. 14)

Transparency

Several participants advocated for greater transparency obligations on AI developers to improve rights holders' ability to enforce their rights and support licensing markets.

[Introducing mandatory transparency requirements] would support a market where copyright holders can license their work to AI developers, transforming licensing from a potential barrier into an enabler for AI innovation. (Free TV Australia, sub. 770, p. 12)

Technology companies should be required to disclose the works that they have used in Australia [to train their AI models] ... to allow the copyright owners to enforce their rights and license the works. (Screenrights, sub. 352, p. 8)

Effective transparency requirements would also encourage responsible acquisition of training data by AI developers ... If an AI developer knows that the content they have ingested can be scrutinised by a rightsholder, this would significantly increase the incentive for the developer to respect copyright and seek a licence via a collective licensing system or through direct negotiation with rightsholders. (RELX, sub. 226, p. 4)

Rightsizing data access

Data access and use can fuel productivity growth: giving people and businesses better access to data that relates to them can stimulate competition and allows businesses to develop innovative products and services. In our consultations for this inquiry, we sought to identify how the Australian Government should facilitate data access, how the existing Consumer Data Right (CDR) could be leveraged, as well as views on our proposed reforms.

Three main themes emerged in questionnaire responses and submissions.

Expanding data access

Broad recognition of the benefits of expanding consumer data access



The Consumer Data Right (CDR)

The CDR has not yet realised its full potential and could be improved



Alternative data access pathways

Concern about the design of the PC's proposed new pathways to expand data access and how they would interact with the CDR



Expanding data access

The value of consumer data in the economy

Many submissions agreed, at least in principle, that enabling individuals and businesses to access data about themselves could unlock substantial productivity benefits, including through improved efficiency and innovation.

We strongly support the PC's objective of improving data access and use across the economy.

We agree with the interim report's finding that the potential benefits of data sharing remain untapped in Australia. Improving the ability to access and use data can unlock benefits across all sectors of the economy. (Microsoft, sub. 574, p. 5)

We also agree with the numerous statements in the interim report about the potential benefits from data access and use: appropriate data use can reduce costs, improve quality of products and services, facilitate new products, improve competition and consumer experience and reduce risks of consumer harm. (Australian Retail Credit Association (Arca), sub. 366, p. 2)

Submissions highlighted that poor data access can lead to consumer harms.

When consumers do not have easy and safe data access, they often rely on unsecure methods such as screen scraping, where consumers share their login details to enable third parties to gain access to their data. This limits their control over how their data is collected and handled, puts their data at risk of misuse and increases their exposure to cybersecurity incidents by normalising the sharing of login details. (Australian Consumer and Competition Commission (ACCC), sub. 495, p. 3)

The result is duplication, inefficiency, and most importantly, service failure. Citizens bear the cost through long delays, repeated requests for the same information, inconsistent decisions, and in the most serious cases, life-threatening outcomes. (Alethux, sub. 561, p. 7)

Current barriers to medicines data access across care settings limit safety, efficiency, and equity. (Advanced Pharmacy Australia, sub. 513, p. 8)

Some submissions commented that access to more data may not have benefits if it is not targeted appropriately.

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...this is not the case, i.e. the expansion of data access does not always have benefits associated with it. (Australian Telecommunications Alliance (ATA), sub. 317, p. 6)

The Australian Competition and Consumer Commission (ACCC) agrees that improved data access is good for consumers and the economy. However, it is important to note that 'improved' does not just mean more access, but access that is safe, transparent and reasonable. (ACCC, sub. 495, p. 3)

Current challenges to expanding data access

Many participants noted the complexity of providing data to individuals and businesses, hindering the ability for data holders to improve data access.

Although data-sharing unlocks benefits from consumer and business access to data, these practices also entail costs for data holders – including upfront investments in secure APIs, user-facing dashboards and robust data governance frameworks. Ongoing compliance costs related to privacy, cybersecurity, and accreditation add to that burden, as do operational expenses tied to customer support, dispute resolution, and system maintenance. (Business Council of Australia (BCA), sub. 488, p. 7)

Despite having a mandated data-sharing law for our industry, there are still specific instances where the law does not fully provide consumers access to their data. This is due to a range of reasons, but primarily as a result of the technology change from car manufacturers. (Australian Automotive Aftermarket Association (AAAA), sub. 354, p. 2)

Australia's public sector is riddled with fragmented data systems. Departments operate as silos, each with its own technology stack, governance model, and cultural boundaries. (Alethux, sub. 561, p. 7)

The Consumer Data Right (CDR)

Participants widely discussed the performance of the CDR, highlighting the tension between its stated goals of driving competition and innovation and issues with implementation, consumer uptake and regulatory complexity.

Implementation challenges

Some participants submitted that the CDR has been expensive and complicated to implement and resulted in slow consumer adoption.

Our assessment is that CDR is high cost but low impact - the banking industry has collectively invested around \$1.5b since 2018 on a reform that hasn't resonated with consumers – just 0.31 per cent of bank customers were using CDR in 2023. (Westpac Group, sub. 413, p. 2)

we understand that the significant compliance costs at present can deter engagement. We are also aware of concerns amongst some parts of the profession that adhering to the intricate Consumer Data Right requirements typically outweigh the benefits delivered. (Law Council of Australia, sub. 599, p. 18)

Submissions highlighted the CDR's data sharing consent process and onboarding requirements have made it difficult for consumers and businesses to use the scheme.

Feedback from Arca Members is that the complex consent framework under the CDR Rules and standards are a key impediment to the widespread adoption of the CDR by the credit industry and end consumers ... (Arca, qr. 61, p. 4)

We believe it should be easier for businesses to share their bank data as part of the CDR and that the current process is an example of where regulation developed in good faith can have the unintended consequence of stifling innovation. (MYOB, qr. 31, p. 3)

For business clients ... it is next to impossible to get it to work. We tried and tried and tried and given up on the entire CDR / Open Banking concept of Business clients, in particular trust bank accounts. Costed a lot of money in developing the solution and after giving up, went back to screen scraping / data parsing technology that works. (Myna Group, qr. 54, p. 2)

While they acknowledged these issues, other industry participants noted that the CDR is now making headway.

We continue to see material progress in the broker use case. A CDR-powered solution (Frollo) is now integrated with major aggregator groups Connective, Finsure and Mortgage Choice. In addition to this, lender-level activations are underway with a number of major banks. (MFAA, sub. 532, p. 6)

The CDR ecosystem had matured significantly, demonstrating strong momentum which can be leveraged as a platform for the PC's objective of improving data access. (WeMoney, sub. 597, p. 16)

Regulatory complexity affects the CDR's effectiveness

Many participants noted that the CDR's regulatory framework is overly complex and restrictive.

the existing CDR framework is too complex and prescriptive for most data access applications: it is not a suitable starting point to address safe and secure access for most non-financial consumer transaction data sets. (Peter Leonard, sub. 411, p. 2)

the Consumer Data Rights (CDR) regime is at the top end of complex regulatory structures and onerous compliance requirements – the review of compliance costs for this regime has found levels of expense that would cripple many Australian businesses ... (Telstra, sub. 36, p. 12)

This included broad agreement that the CDR's bespoke privacy safeguards and restrictions on how CDR data can be used limits its utility and hinders innovative use cases.

CDR participants are required to comply with its bespoke privacy regime, creating cost and complexity to maintain two separate privacy systems for CDR and non-CDR data. (ACCC, sub. 495, p. 10).

CDR safeguards are more prescriptive than the Privacy Act, limiting use cases, discouraging uptake, and pushing businesses toward less secure alternatives like screen scraping (Fintech Australia, sub. 578, p. 9).

Under current CDR rules, any new data created from CDR inputs is itself classified as CDR data, even when it simply powers tools like reconciled transactions or cash-flow forecasts. This reduces the utility of data and prevents small businesses from fully benefiting from services they already rely on. (Xero, sub. 355, p. 9)

Opportunities for improvement

Several submitters emphasised that the CDR could play a key enabling role in Australia's digital economy and argued for changes to improve its effectiveness.

We have invested in the CDR in Australia because we believe in its potential to unlock tremendous value for Australian consumers through the safe and secure sharing of data. (Mastercard, sub. 775, p. 2)

Some of the most common measures that participants proposed included incorporating government-held data sets into the scheme, implementing 'action initiation' and phasing out screen scraping.

In Westpac's view, an effective way to increase the utility of the Consumer Data Right is by allowing government-held data, such as ATO data, to be accessed through the scheme. This would significantly enhance CDR for both consumers and small businesses. (Westpac Group, sub. 413, p. 2)

Action initiation will enable consumers, with their explicit consent, to instruct accredited third parties to perform a range of actions on their behalf ... [it] is not merely an enhancement, but a fundamental shift that will significantly expand the CDR's functionality to make it useful for individual consumers. (WeMoney, sub. 597, p. 24)

Widely recognised as insecure and unsustainable, when used for banking data screen scraping undermines fraud protections and poses systemic cyber risks. With regulators and industry bodies calling for its phase-out, a clear transition timeline towards secure, CDR-based sharing is now needed. (Fintech Australia, sub. 578, p. 10)

However, other participants cautioned against broad applications of the scheme and highlighted that market-based data solutions may be better placed to support data access for some use cases.

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. (ATA, sub. 317, p. 7)

the primary lesson the Commission should take from the mandatory Consumer Data Right regime is that the market is better placed than regulators to find and operationalise opportunities to enable consumers to benefit from data about themselves and facilitate its use to drive innovation and productivity growth. (Telstra, sub. 36, p. 3)

In some sectors, the market, rather than the government or a regulator, may be best placed to determine the relevant cost benefit trade-offs of relevant data access and sharing use cases to unlock genuine net productivity gains for consumers and businesses, subject to appropriate information protection standards. (BCA, sub. 488, p. 7)

Alternative data access pathways

Following the interim report, many inquiry participants expressed views on our proposal to expand data access through alternative data access pathways. Some submissions supported, at least in principle, the new pathways to expand data access.

FinTech Australia supports the Productivity Commission's recommendation in-principle, particularly as it relates to enabling more effective consumer data access, fostering the innovation that fintechs are premised on, and reducing unnecessary compliance burdens. (FinTech Australia, sub. 578, p. 8)

Xero welcomes the Productivity Commission's draft recommendation 2.1 to establish lower-cost, more flexible regulatory pathways to expand basic data access for individuals and businesses. (Xero, sub. 355, p. 6)

We welcome the Interim Report's focus on "new pathways to expand data access" and the proposal to establish lower-cost, flexible frameworks that meet the needs of sectors where they are. Draft Recommendation 2.1, which envisages an industry-led pathway and a higher-function pathway, aligns closely with the experience of the Motor Vehicle Service and Repair Information Sharing Scheme (MVIS). (AAAA, sub. 354, p. 1)

However, a few participants expressed the view that additional regulatory intervention was not needed.

The main regulatory support required for these initiatives to succeed in Australia is to have in place overarching, economy-wide, principles-based protections (such as under the Privacy Act) to ensure consumers can be confident in the safety and security of their data when used for any given purpose. (Telstra, sub. 586, p. 5)

Design considerations of the alternative pathways

While there was general support for mechanisms to facilitate consumer access to data that are lower cost and flexible, many submissions expressed concerns about whether the pathways would achieve their intended goal.

our experience has been that these frameworks can be hampered by various factors including misaligned commercial incentives between the respective participants, a lack of standardisation and interoperability, the need for bilateral agreements and limited consumer protection mechanisms. This in turn can result in slow and uneven adoption. (Mastercard, sub. 775, p. 3)

We caution against the proposal that 'Government could act as a technical steward [by] conduct[ing] basic performance testing and issu[ing] penalties for serious breaches'. While we would support Government facilitation of standards development by industry, data breach issues should be dealt with by existing data requirements and regulations. (Australian Financial Markets Association (AFMA), sub. 360, p. 2)

The experience of the CDR demonstrates the significant challenges involved in creating secure data-sharing frameworks. The creation of any alternative data-sharing pathways that facilitate standardised data would face similar challenges that should not be underestimated. (ACCC, sub. 495, p. 4)

Other participants raised the importance of broad engagement and co-design.

On Data Access, reforms must explicitly include not-for-profits, Aboriginal Community Controlled Organisations (ACCOs), community organisations and data intermediaries. (Seer Data & Analytics, sub. 408, p. 2)

A co-design approach with cross-sector industries could be a potential way to develop a readiness review process, which would identify sectors for new data access pathways. Such co-design would increase industry's sense of co-ownership of subsequent data access pathways, strong early adoption and willingness to share information with government that will be essential for the readiness review. (Commonwealth Scientific and Industrial Research Organisation (CSIRO), sub. 322, p. 7)

One participant noted the importance allowing consumers to share the minimum amount of data needed for a given use case.

Data minimisation is where individuals and organisations share assertions from authoritative sources about themselves (e.g. "over 18", "income above \$X", "rent paid on time") rather than requiring sharing of raw data for the data recipient to reach the same conclusion. The Community Group encourages the Productivity Commission to add assertion-based sharing as an alternative pathway. (Open ID Foundation - Australian Digital Trust Community Group (OIDF ADTCG), sub. 462, pp. 3–4)

Sectoral responses

Participants had mixed views on how alternative data access pathways could be introduced. Several submissions supported specific applications where consumer access to data could be expanded.

The AAA believes unlocking vehicle-generated data so that consumers can share in its benefits, can be an important element in the Government's objective to revitalise competition and boost productivity. (Australian Automobile Association, sub. 567, p. 6)

RAI agrees with these recommendations in relation to access to regional and sub-regional level data. There are many indicators where data at the regional and sub-regional level is lacking, such as in: housing and construction data; regional labour markets data; regional migration data and regional data on sustainability investments and performance in relation to the Net Zero transition. (Regional Australia Institute (RAI), sub. 557, p. 7)

Other participants did not support the rollout of the pathways to specific sectors.

It's unclear from the Commission's report what consumer benefits would be achieved by applying a data access pathway to general insurance. A data access pathway should therefore not be pursued in general insurance unless there are clearly identified gaps in the current information management regulatory framework, there are clear benefits identified for consumers and there is a net productivity benefit. (Insurance Council of Australia, sub. 330, p. 2)

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-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) ... (ATA, sub. 317, pp. 5–6)

Many submissions suggested that data access regulation should only be applied to new use cases or sectors based on a cost benefit analysis.

we suggest that an independent cost-benefit analysis be completed on any proposed data sharing to ensure that it will deliver a net benefit to the community. (Australian Financial Markets Association (AFMA), sub. 360, p. 3)

Government should test assumptions through the readiness review with industry rather than rely on speculation about readiness or cost. (BCA, sub. 488, pp .8–9)

Consideration of any new feature should be balanced with the potential regulatory impost of creating a compliance requirement where there is little to no demand from individuals. As the availability of AI products for consumers continues to rise, the need for individuals to access structured data may be reduced, as the majority of these products can read all forms of data. (Woolworths Group, sub. 596, p. 2)

Interactions with the Consumer Data Right

Many participants proposed that reform efforts to expand data access should focus on leveraging and improving the CDR framework, rather than developing parallel pathways. Examples are shown below.

New data pathways might not be needed

“ We believe recommendation 2.1 should directly support the CDR as the standardised data sharing regime and obviate the need for the introduction of new pathways which will likely disperse resources and attention. (Mastercard, sub. 775, p. 3) ”

“ The Consumer Data Right could provide a more coherent vehicle for expanding data access, and for organisations to share data in a consistent format. Further, integrating multiple sectors under unified data-sharing rules offers a substantial volume of standardised data that can be harnessed for innovative applications. (Law Council of Australia, sub. 599, p. 18) ”

“ The TCA (Tech Council of Australia) advocates for the use of existing mechanisms, such as the Consumer Data Right (CDR), for improved access to data in sectors with a demonstrated data access deficit. To enable this, it is critical that the shortcomings in the design of the current CDR system be addressed. (TCA, sub. 543, p. 15) ”

The pathways could create complexity and duplication

“ Expanding access to consumer and business data is critical to competition and innovation. We strongly support reform of the CDR over the creation of new, duplicative frameworks. (FinTech Australia, sub. 578, p. 3) ”

“ The new access pathways will necessarily add more complexity and we encourage the final recommendations to focus on finishing what has already been started before embarking on new and novel data sharing pathways in relation to datasets with nascent use cases. (WeMoney, sub. 597, p. 15) ”

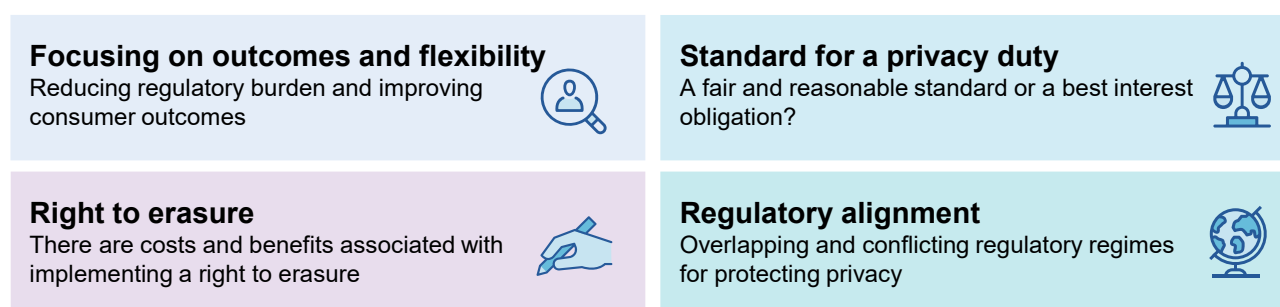
“ Redirecting efforts away from CDR to investigating and developing alternative data pathways risks inefficiency and duplication, given the strong current state of CDR and the significant challenges that will be faced creating alternative pathways. Wherever possible, we suggest focus should be put on leveraging the strong data-sharing fundamentals the CDR has already established. (Australian Competition and Consumer Commission (ACCC), sub. 495, p. 6) ”

Outcomes-based privacy regulation

The productivity benefits of data access and use can only be realised if there is trust that the party providing access to the data has the right to do so, trust that the system of access is safe and secure, and trust that the party accessing the data will handle the data safely. Privacy regulation is one way that governments seek to manage the risks associated with handling personal information, while still allowing the benefits of data access to be realised.

A key focus of consultation was whether Australia's privacy regime underpins trust and is sufficiently flexible, achieving privacy outcomes, without overly burdening regulated entities. We sought feedback about what reforms, if any, were needed to improve the way privacy protections are regulated in Australia.

The key themes that emerged from consultation are depicted in the following figure.



Focusing on outcomes and flexibility

Some participants said that outcomes-based approaches to privacy regulation could reduce regulatory burden and increase efficiency.

ACCI welcomes the consideration of flexible alternatives to compliance with privacy law, especially considering the proposed removal of the small business exemption: a calibrated approach would more easily strike the balance between much-needed privacy awareness, and avoiding burdensome red tape. (Australian Chamber of Commerce and Industry (ACCI), sub. 424, p. 3)

AFMA supports the proposal for implementing an alternative compliance pathway. We note again that these type of principles-based regulations allow for greater flexibility and efficiency for firms. (Australian Financial Markets Association (AFMA), sub. 360, p. 4)

an outcomes based regulatory framework – where entities can choose the manner in which they comply with specified outcomes – is more efficient, adaptable and future proof, as it is agnostic about what processes and technologies are used to achieve desired outcomes. (IAB Australia (IAB), sub. 601, p. 10)

Some also noted the benefits of greater flexibility for regulated entities.

An outcomes-based approach would provide businesses with the flexibility to meet privacy obligations in a way that best suits their operations, rather than being tied to a prescriptive model. (Institute of Public Accountants (IPA), sub. 481, p. 2)

Australian privacy legislation should avoid overly prescriptive requirements and instead provide flexible, outcomes-based obligations that can adapt to the diverse operational context of fintechs and other digital service providers. (FinTech Australia, sub. 578, p. 11)

While others saw an upside for innovation and competition.

A flexible and outcomes-based approach to privacy, rather than prescriptive requirements, would better reflect the diversity of data uses in the games industry and promote innovation while maintaining strong protections. Aligning compliance obligations with actual risk levels remains a key priority. (Interactive Games & Entertainment Association (IGEA), sub. 313, p. 3)

We therefore support the proposal to establish a more outcome-based approach, which could redirect compliance resources from documentation-heavy processes toward investment in meaningful privacy safeguards. The alternative compliance pathway would provide the flexibility businesses need whilst maintaining regulatory certainty through clear outcome-based standards. Such a shift would enable innovation by providing flexibility to implement privacy-enhancing technologies and novel approaches that achieve equal or superior privacy outcomes through alternative means; it could also foster greater competition in digital markets by reducing barriers to entry for businesses with innovative compliance approaches and reward privacy-enhancing innovation overall. (Skyscanner, sub. 197, p. 1)

But we heard concerns that a dual-track approach to privacy regulation based on alternative compliance pathways, as discussed in our interim report, could lead to increased uncertainty and additional complexity.

the approach recommended by the Productivity Commission of introducing a new alternative compliance pathway risks creating uncertainty and inefficiency. (Attorney-General's Department (AGD) sub. 602, p. 2)

An alternative compliance pathway and best interest obligation would undermine effective privacy regulation and increase regulatory uncertainty for business entities. (Office of the Australian Information Commissioner (OAIC), sub. 356, p. 1)

compliance with an alternative pathway, whether by choice or by imposition, would create additional costs for the ABC in merely having to re-tool its compliance approach and practices. Introducing alternative compliance framework risks introducing confusion into the now well-established privacy compliance system. (Australian Broadcasting Corporation (ABC), sub. 350, p. 15)

a large portion of research is collaborative. There is a risk that a dual track system would lead to research partners and collaborators managing the same data, including personal and sensitive information, against a different regulatory framework. It would be wasteful (and paradoxical) for one entity to spend resources ensuring technical compliance with the framework it uses, only for that same data to not be subject to same level of protection under a different entity's regulatory framework. (Commonwealth Scientific and Industrial Research Organisation (CSIRO), sub. 322, p. 8)

While an outcomes-based approach to privacy regulation can better facilitate innovation by accounting for the diverse contexts in which privacy regulations apply, the introduction of an alternative compliance pathway into the Privacy Act, whether by way of a defence or safe harbour model, risks increasing operational complexity and costs and creating regulatory uncertainty. (Tech Council of Australia, sub. 534, pp. 15–16)

Standard for a privacy duty

The proposal for an outcomes-based privacy obligation in the interim report generated discussion about whether a ‘fair and reasonable’ standard or a ‘best interests’ standard should guide compliance.

Some participants said that a ‘best interests’ standard was not suited to application in a privacy context.

The *best interest* test is not widely used in analogous legislation, nor does it address core privacy constructs such as necessity, proportionality, reasonableness or fairness, when collecting, using or disclosing personal information. (Calabash Solutions, sub. 362, p. 36)

It is not clear why a best interest obligation should be considered more certain, and less onerous, than the more objectively assessed test of reasonableness. (Law Council of Australia, sub. 599, p. 22)

best interests is an inferior and incomplete test when compared to a test of *reasonableness*. Regardless of whether a dual track is further explored, the PC’s interim proposal for a *best interests* test should be abandoned. (Peter Leonard, sub. 100, p. 13)

in Australia the idea of ‘best interest’ usually means something akin to ‘avoid conflicts of interests’ (under fiduciary and Financial Services law). This kind of obligation would provide minimal protection in the privacy context. Indeed, one might suggest that there is an inherent conflict in most processing of personal information. (Centre for Artificial Intelligence and Digital Ethics, The University of Melbourne (CAIDE), sub. 769, p. 4)

We have concerns about the introduction of a best interests obligation. The examples cited in support of such an obligation are drawn from the financial services sector, which we consider to be an inappropriate analogy. The relationship between an APP entity and an individual who provides personal information is fundamentally different in nature and does not warrant the same regulatory construct. (Business Council of Australia, sub. 488, p. 11)

But there was support for the adoption of a ‘fair and reasonable’ standard to privacy.

Stakeholder consultation throughout the Privacy Act Review demonstrated widespread support for introducing a fair and reasonable test to protect privacy. The proposed ‘fair and reasonable’ test under consideration would replace the Privacy Act’s current requirements with a simplified, principles-based test for information handling that shifts responsibility to protect and manage personal information so that it is shared more evenly between entities and individuals. It would require entities handling personal information to consider whether their information handling practices are fair and reasonable in the circumstances. Fairness and reasonableness are widely recognised concepts in Australian law (including anti-discrimination, employment and consumer law). They appear in existing obligations in the Privacy Act. (AGD, sub. 602, p. 4)

a fair and reasonable test would also be consistent with the existing language of the Privacy Act and other economy-wide frameworks such as the Australian Consumer Law that already employs concepts of reasonableness and fairness. This will allow the OAIC to enforce the test more effectively, be less burdensome on regulated entities that already have familiarity with the concepts, and has well established precedence in judicial interpretation. A fair and reasonable test will incentivise less intrusive practices, encourage consideration of the impact of their activities on the interests of individuals, and facilitate better privacy outcomes. (OAIC, sub. 356, p. 5)

[Fair and reasonable takes] account of extensive stakeholder feedback, and: the familiarity of concepts like fairness and reasonableness in Commonwealth legislation, as well as factors for assessing fairness and reasonableness; the (relative) certainty of the proposed test (perfection

being unattainable); and the fact that a ‘fair and reasonable’ test provides an objective standard, not one defined by firms with strong commercial incentives to use data. There are already research and data which lay the groundwork on what collection and use of personal data Australians consider fair and reasonable. (ARC Centre of Excellence for Automated Decision-Making and Society (ADM+S), sub. 412, pp. 20–21)

Right to erasure

There were mixed views about whether the Privacy Act should be amended to introduce a right to erasure. Some participants supported its introduction as a means to protect individual privacy interests.

The right to erasure is a critical part of Privacy Act reforms and it cannot be sacrificed in order to provide AI companies with *carte blanche* to use and abuse Australians’ information without their consent. Without a right to erasure, AI companies will be able to appropriate and hoard Australians’ information in perpetuity, potentially causing individuals harm for their entire lives. (Digital Rights Watch, sub. 311, p. 14)

[Not having a right to erasure] would worsen the power asymmetry between individuals and data-holding corporations, is completely inconsistent with a rights-first approach and increases the risks and subsequent harms of a data breach. (Electronic Frontiers Australia, sub. 288, p. 12)

The right to erasure must be legislated to protect the long-term privacy and interests of children ... Children are increasingly active participants in digital environments and the economy ... Yet, they often lack agency and struggle to access or control their own data. (ARC Centre of Excellence for the Digital Child, sub. 379, p. 11)

We support the rights of consumers to control their own data and we were the first company to apply consumer rights under the GDPR, including the right to erasure, globally. Data deletion has long been one of the core consumer rights and is present in almost all existing data privacy laws. (Microsoft, sub. 574, p. 6)

But others disagreed. Some said that a right to erasure would raise additional challenges in terms of regulatory and compliance burdens.

Such a right would be a significant and unreasonable regulatory burden, be challenging and unsustainable to implement, and provide limited public benefit beyond existing effective obligations that are already in place. (IGEA, sub. 313, p. 16)

We agree with the Commission’s analysis that a right to erasure would impose a high compliance burden on regulated entities, with uncertain privacy benefits for individuals, especially given similar outcomes can already be achieved under the existing requirements (for example Australian Privacy Principle 11.2 under the Privacy Act). (FinTech Australia, sub. 578, p. 13)

We strongly support draft recommendation 3.2 that the Government not introduce a right of erasure in the Privacy Act. We recommend that ... the broader suite of Privacy Act Review proposals be paused given uncertainty on the costs to productivity from implementation and the potential for limited privacy benefits. It would be more productive to prioritise clarification and simplification of existing data retention laws, rather than add complexity to an already full suite of obligations and overlapping regulation. (Australian Institute of Company Directors, sub. 563, p. 3)

Others said there could also be potential conflicts with existing data retention laws.

Introducing a GDPR-style right to erasure as another piecemeal addition to the Privacy Act will create significant operational and compliance burdens. It may also lead to regulatory uncertainty where it may conflict with existing data retention obligations. (Tech Council of Australia, sub. 534, p. 16)

A broad erasure right could ... conflict with obligations to retain data where relevant for compliance purposes (e.g. the [Anti-Money Laundering and Know Your Customer] obligations of our customers). (LSEG, sub. 341, p. 2)

There were also concerns about the flow-on implications for the quality and usability of data sets.

For researchers, such a right will potentially compromise their ability to conduct population-wide research (for example, where data is erased from administrative data collections), leading to incomplete datasets, skewed results and bias that reduces the utility of their findings. (Population Health Research Network, sub. 603, p. 5)

our primary concern lies in the clinical safety risks associated with incomplete medical records. Medical practitioners, including GPs, rely on comprehensive patient information – often sourced from pathology, diagnostic imaging, and specialist reports – to inform clinical decision-making. The removal of data from medical records could result in decisions made without a full understanding of the patient's history, potentially leading to patient harm and medicolegal consequences. (Royal Australian College of General Practitioners, sub. 773, p. 7)

Regarding the right to erasure, in our experience, with large and complex systems, deleting certain pieces of information can put at risk connection between records, make it harder to keep accurate histories and weaken tools that help detect fraud or cyber-attacks. (Business Council of Australia, sub. 488, p. 11)

But others said that these concerns could be addressed through appropriate regulatory design.

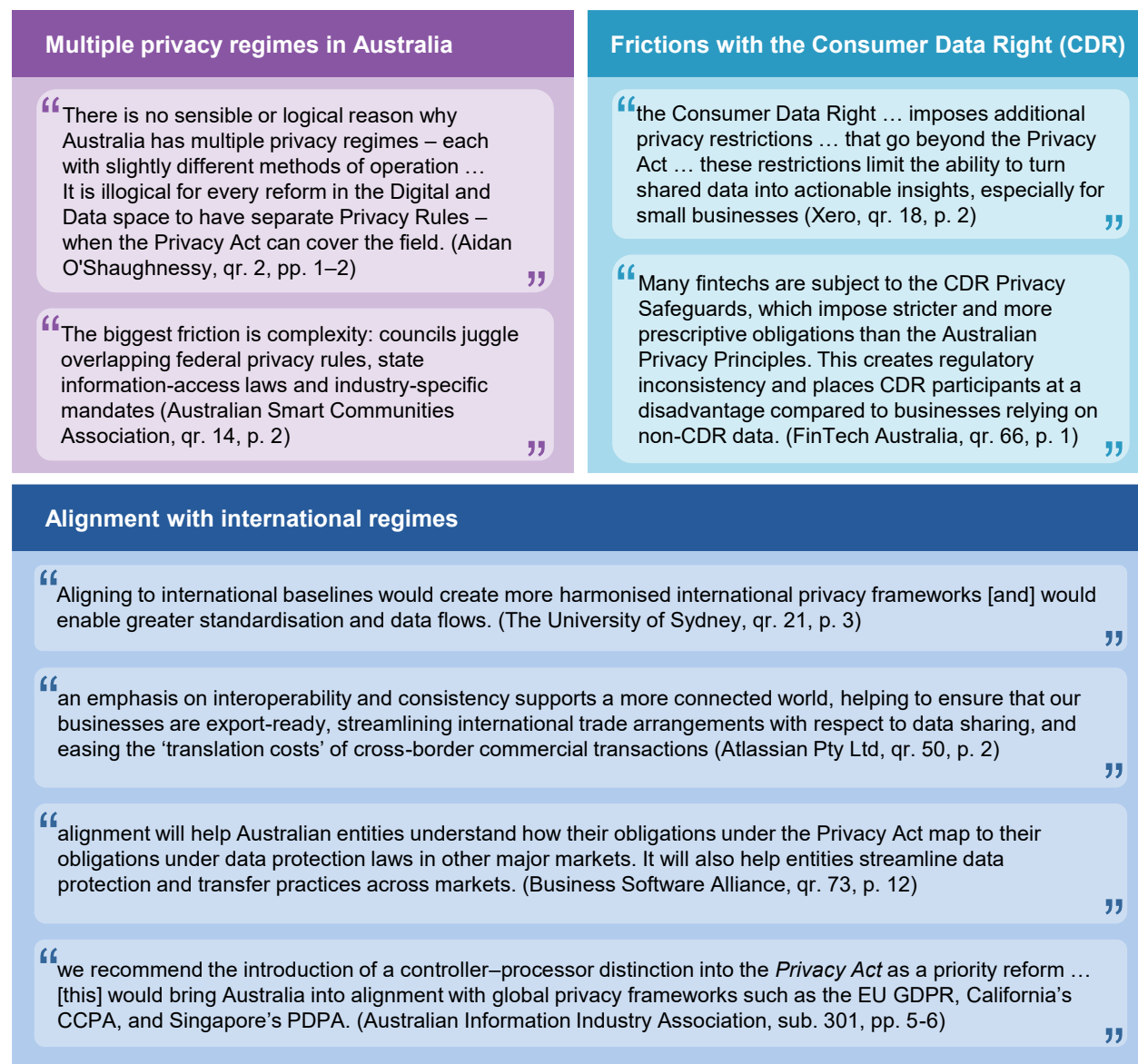
A right to erasure represents essential national digital infrastructure that must be matured, not abandoned, for the AI era ... We acknowledge concerns that universal erasure rights could jeopardise longitudinal research datasets when participants retrospectively withdraw from published studies, potentially creating selection bias and invalidating time-series analyses. The ARDC proposes the implementation of an erasure protocol enabling removal of personally identifiable information whilst preserving aggregated, anonymised records essential for scientific validity. (Australian Research Data Commons, sub. 422, p. 6)

The OAIC regards it as essential to consider how a right to erasure could be given effect in the Australian context, taking into account the need for a pragmatic approach, including by articulating exceptions to this right in certain circumstances and a “reasonableness threshold” to assist in reducing overly burdensome regulatory compliance. (OAIC, sub. 356, p. 6)

Regulatory alignment

Another emerging theme from consultation was the issue of regulatory fragmentation and the need for harmonisation and alignment. This was identified as an issue both in terms of the multiple overlapping regimes that deal with privacy in Australia (for example, the Australian Government and the states and territories each have dedicated privacy legislation and there are also sector and policy specific laws), as well as in terms of the differences between Australian law and international privacy regimes.

The figure below illustrates some of the issues raised.



Enhance reporting efficiency, transparency and accuracy through digital financial reporting

Digital financial reports can be read by machines, such as computer programs, and have the potential to make the preparation, extraction and analysis of data more efficient, transparent and accurate. Over the course of the inquiry, we sought feedback on the potential benefits of digital financial reporting, options to promote uptake of digital financial reporting in Australia and how to implement a digital financial reporting mandate.

Benefits of digital financial reporting

Conceptual benefits of digital financial reporting and use cases for digital financial reports



Barriers to digital financial reporting

The financial and intangible costs of transitioning to digital financial reporting



Uptake of digital financial reporting

Options to increase uptake of digital financial reporting, including a mandate



Implementing a mandate

Preparing, submitting and accessing digital financial reports



Benefits of digital financial reporting

Many participants highlighted that digital financial reporting would make the analysis of financial reports easier, including for cross-company comparisons. Participants also identified that digital financial reporting would improve the visibility of Australian report preparers in capital markets. Examples of benefits are shown below.

Ease of use	Cross-company comparisons	Global visibility
“Easier to analyse and use. (MSIA, qr. 70, p. 3)” “Easy to copy and paste for re-use ... providing a ‘single source of truth’. (Anonymous, qr. 9, p. 3)” “Address[es] ... complexity ... by allowing users to more readily access information. (ASIC, sub. 2, p. 3)”	“Easier comparison and analysis. (ADHA, qr. 16, p. 7)” “Investors and other decision makers [can] compare ... across companies. (CA ANZ, qr. 30, p. 3)” “Comparing ... results over time ... or between companies. (The Pharmacy Guild of Australia, sub. 29, p. 10)”	“Visibility ... across borders. (XBRL Int., sub. 260, p. 8)” “Make Australian companies more accessible and attractive to international capital markets. (EY Australia, qr. 27, p. 3)” “Attract capital for large-scale decarbonisation and automation projects. (ITS Australia, sub. 428, p. 3)”

ADHA: Australian Digital Health Agency; ASIC: Australian Securities and Investments Commission; CA ANZ: Chartered Accountants Australia and New Zealand; MSIA: Medical Software Industry Association; XBRL Int.: XBRL International, Inc.

One participant identified an additional benefit for report preparers in regional and remote areas that submit hard copy financial reports.

Digital financial reporting may deliver additional benefits for regional and remote businesses due to the cost and time savings from a reduced need for postal services. (Regional Australia Institute, sub. 13, p. 6)

A number of participants also identified the activities they could undertake more efficiently with digital financial reports:

Identify[ing] if corporations are paying the taxes they are required to pay and to identify subsidiaries in secrecy jurisdictions. (Tax Justice Network Australia, qr. 42, p. 2)

Obtaining details of a particular situation or industry practice [such as] determining whether wind farm operators are recognising a rehabilitation obligation for their windmills. (David Hardidge, qr. 19, p. 2)

Company analyses, industry benchmarking and other research in the delivery of a variety of professional services. (EY Australia, qr. 27, p. 2)

[Using reports for] research and teaching purposes. (The University of Sydney, qr. 21, p. 5)

Assess[ing] potential vendor financial health during procurement activities and for benchmarking activities. (Australian Digital Health Agency, qr. 16, p. 7)

Check[ing] solvency, gearing and cash-flow resilience [of potential vendors]. (Australian Smart Communities Association, qr. 14, p. 6)

Barriers to digital financial reporting

Participants identified several reasons why Australian report preparers have chosen not to prepare digital financial reports under the existing voluntary submission scheme.

Many participants expressed concern about the cost of transitioning to digital financial reporting, including software, systems and training.

Making digital reporting mandatory could pose considerable difficulties for businesses, particularly small businesses, which do not necessarily have the resources to invest in accounting software. (Australian Chamber of Commerce and Industry (ACCI), sub. 19, p. 17)

We do not submit [digital financial] reports ... because of the time and effort involved. (The University of Sydney, qr. 21, p. 5)

Barriers to adoption [of digital financial reporting] in Australia ... include:

- Implementation costs;
- Technical challenges;
- Data security and privacy concerns; and
- Regulatory and standardisation issues. (Australian Institute of Company Directors (AICD), sub. 18, pp. 18–19)

Implementation [of digital financial reporting] would require upfront investment in systems, processes, and staff training. ... In the near term, preparation and compliance costs may increase relative to current levels, such as internal resource costs in relation to training and technology investments. (Group of 100 (G100), sub. 1, p. 2)

Additionally, participants identified coordination failures – between report preparers, and between report preparers and report users – as a barrier to uptake of digital financial reporting.

There is little incentive or value in an individual company voluntarily producing a digital report where others do not. (Chartered Accountants Australia and New Zealand (CA ANZ), qr. 30, p. 3)

ASIC's observation is that companies are not preparing digital financial reports ... because investors and analysts are not set up to use them in Australia. However, analysts have not updated their systems because companies do not provide digital reports. (Australian Securities and Investments Commission, sub. 2, p. 2)

Some business peak bodies suggested that the need to prioritise implementing other reporting requirements was a barrier to the adoption of digital financial reporting.

The property sector is currently focused on implementing and operationalising complex sustainability reporting standards ... The implementation of a new financial reporting regime would further dilute limited resources. (Property Council of Australia, qr. 64, p. 2)

Any potential changes should also consider the ability of all stakeholders to comply [with any digital financial reporting requirements] in the context of other changes, including climate-related financial disclosures. (Business Council of Australia (BCA), sub. 16, p. 2)

Other business peak bodies expressed concerns that digital financial reporting may limit report preparers' ability to convey non-standard financial information or construct a narrative surrounding financial results.

There are concerns about the potential inflexibility of standardised [digital financial reporting] taxonomies in capturing the nuances of diverse business models. (G100, sub. 1, p. 2)

A potential issue is the reporting of non-standardised information, such as unique disclosures and narrative statements for specific entities, and how this would be facilitated via digital reporting. (The Pharmacy Guild of Australia, sub. 29, p. 10)

[There is a] risk that standardised [digital reporting] formats reduce meaningful business narratives to data points, potentially hampering rather than helping capital allocation decisions. (G100, sub. 363, p. 5)

Uptake of digital financial reporting

Participants reflected on whether there is a need for government intervention to increase uptake of digital financial reporting, as well as what form this intervention should take if it is necessary.

Some participants saw little need for government intervention, arguing that AI is a suitable substitute for digital financial reporting.

In the context of AI, the format [whether digital or non-digital] of published data is unlikely to hinder comprehensive data analysis. (AIUC Global Pty Ltd, sub. 600, p. 6)

The Productivity Commission should investigate the role that AI and machine learning could play in achieving similar policy objectives [to digital financial reporting]. (Property Council of Australia, qr. 64, p. 3)

NAB encourages the PC to consider the evolving role of AI in financial reporting. AI tools are increasingly capable of interpreting and standardising diverse reporting formats, potentially reducing the need for rigid taxonomies. (National Australia Bank, sub. 581, p. 21)

Other participants suggested that government intervention could come in the form of support or incentives for report preparers, consultation with stakeholders or a cost-benefit analysis.

ASIC should be encouraged to develop free practical tools and templates, provide offsets for fees, and clearly demonstrate utility to market participants. (Property Council of Australia, qr. 64, p. 3)

[ACCI] supports government programs to boost the uptake of digital financial reporting software and services. (ACCI, sub. 424, p. 4)

[Government may] undertake a review to identify and resolve any remaining barriers to [digital financial reporting]. (Governance Institute of Australia, sub. 28, p. 5)

The AICD recommends Treasury conduct a public consultation. (AICD, sub. 18, p. 3)

We recommend a cost/benefit analysis be conducted to evaluate the macroeconomic benefits [of digital reporting] against the additional financial burden on preparers. (CPA Australia, qr. 45, p. 4)

Many participants, some of whom are quoted in the figure below, gave in-principle support to a digital financial reporting mandate.

Government agencies	Professional and peak bodies
“ASIC strongly supports the mandatory use of digital financial reporting. (ASIC, sub. 2, p. 2)” “Making digital financial reporting the default offers statistical benefits. (ABS, sub. 587, p. 6)”	“Making digital financial reporting the default for disclosing entities would be a positive step. (IPA, sub. 481, p. 2)” “We support making digital financial reporting the default for disclosing entities. (FinTech Australia, sub. 578, p. 4)” “CA ANZ strongly supports the call for government action to make digital reporting the default. (CA ANZ, sub. 560, p. 2)” “COSBOA supports the shift to mandatory [digital] financial reporting. (COSBOA, sub. 524, p. 3)” “CPA Australia fully supports the recommendation that digital financial reporting should be mandated in Australia. (CPA Australia, sub. 397, p. 4)” “The TCA supports the recommendation [of a mandate]. (TCA, sub. 534, p. 16)” “ASA supports mandatory digital financial reporting for all disclosing entities. (ASA, sub. 343, p. 1)”
Auditors	
“KPMG supports the move towards mandatory digital financial reporting in Australia. (KPMG Australia, sub. 349, p. 2)” “EY is broadly supportive of the [recommendation] ... to mandate digital financial reporting for disclosing entities. (EY Australia, sub. 418, p. 6)”	
Unions	
“UWU supports making digital financial reporting the default. (UWU, sub. 520, p. 24)” “The ACTU supports making digital financial reporting the default. (ACTU, sub. 575, p. 18)”	

ACTU: Australian Council of Trade Unions; ABS: Australian Bureau of Statistics; ASIC: Australian Securities and Investments Commission; ASA: Australian Shareholders' Association; CA ANZ: Chartered Accountants Australia and New Zealand; COSBOA: Council of Small Business Organisations of Australia; IPA: Institute of Public Accountants; TCA: Tech Council of Australia; UWU: United Workers Union.

Implementing a mandate

In response to an information request in the interim report, participants shared their perspectives on how a digital financial reporting mandate should be implemented.

Scope

There were mixed views on whether a digital financial reporting mandate should apply just to disclosing entities (publicly listed companies and other public interest entities) or whether a broader range of report preparers should be in scope.

Limiting the scope of the mandate to companies developed enough to be disclosing entities, permits smaller entities to gain the benefit of the mandate via access to high quality financial data without the compliance burden of being subject themselves to additional costs associated with the mandate. (FinTech Australia, sub. 578, p. 14)

Any mandate should apply consistently across all entities of sufficient size, not merely those already subject to public market discipline [in other words, disclosing entities]. This comprehensive approach would better serve transparency objectives whilst ensuring fairness across the competitive landscape. (G100, sub. 363, p. 5)

Participants also had mixed opinions on whether a digital reporting mandate should cover both financial and sustainability reporting from the outset or be limited to financial reporting.

We suggest embedding ESG (Sustainability) reporting into the digital reporting reforms, so government can align financial transparency with social and environmental accountability. (Seer Data & Analytics, sub. 408, p. 2)

It is critical that Australia prioritises the implementation of digital financial reporting as the immediate step ... the need for reform is most acute in financial reporting. (CA ANZ, sub. 560, p. 21)

Technical considerations

Many participants emphasised the importance of supporting the provision of high-quality digital financial data.

Ensuring quality is critical to the success of a digital reporting regime. (XBRL International, sub. 260, p. 4)

Any mandated roll out [of digital financial reporting] must have provisions for error handling, quality control thresholds and appropriate re-submission mechanisms. (Australian Securities Exchange, sub. 438, p. 4)

Participants were also overwhelmingly supportive of digital financial reports being prepared using Australia's existing digital financial reporting taxonomy and the inline eXtensible business reporting (iXBRL) format.

We strongly support the recommendation that Australia's digital financial reporting taxonomy remain aligned with (annually updated) IFRS taxonomies with the move to a mandatory reporting scheme. (XBRL International, Inc (XBRL International), sub. 260, p. 4)

We concur with the PC's points on the key advantages of iXBRL format relative to XBRL. ... iXBRL format provides the advantage of both human and machine-readable information which is a more direct transition from current reporting practices in Australia than machine only formats. (CA ANZ, sub. 560, p. 21)

Several participants expressed support for digital financial reports being publicly and freely available via a portal managed by the Australian Securities and Investments Commission.

Digital reports should be lodged through a centralised, regulator-managed portal with free public access. (Australian Shareholders' Association, sub. 343, p. 3)

Digital financial reports should be submitted electronically through a suitable portal developed specifically for this purpose by ASIC ... The fee charged (currently \$40 per report) to access financial reports through the ASIC portal should be completely removed. (CPA Australia, sub. 397, pp. 5–6)

Other participants highlighted identity verification mechanisms that could be embedded into the digital financial reporting submission process.

We suggest any new portals include the option of using an accredited Digital ID to support the [digital financial report] lodgement process. ... Providing this option would streamline administration and save time for entities that access multiple government services. (Australian Competition and Consumer Commission, sub. 495, pp. 15–16)

By adopting the [Legal Entity Identifier] and [verifiable Legal Entity Identifier] for signing of digital financial reporting, stakeholders can be assured that the reports are authentic and tamper-proof – even if accessed outside an official website or as a downloaded version. (Global Legal Entity Identifier Foundation, sub. 265, p. 5)

Considerations for report preparers

Participants stressed the importance of supporting report preparers through a transition to mandatory digital financial reporting. This support could include adequate lead times and the use of evidence-based change management practices.

We ... emphasise the need for sufficient support and lead times to manage the transition costs [associated with digital financial reporting], particularly for smaller businesses. (Institute of Public Accountants, sub. 481, p. 2)

Upgrade ABNs into portable, digital credentials (like digital driver licences) to cut red tape and strengthen trust in transactions. This is a precursor and enabler of digital financial reporting. (GS1 Australia, sub. 415, p. 2)

Enabling organisational adoption [of digital financial reporting] through evidence-based change management and work design, avoiding the productivity losses and workforce impacts of poorly managed transitions. (Australian Psychological Society, sub. 558, p. 5)

Emerging reform ideas

During the consultation process participants raised some reform ideas that were outside of the scope of this inquiry. Some of the ideas are outlined below.

Government data

Several submissions called for reforms to the *Data Availability and Transparency Act 2022* (Cth) (DAT Act) and better integration of government datasets into the broader economy.

The Productivity Commission should recommend expanding the DAT Act accreditation framework to allow applications from both private and non-Australian entities, provided they can demonstrate compliance with Australia's security, privacy, and data-handling requirements. This would increase the utility of the Scheme, maximise the value of public sector data. (Business Software Alliance (BSA), sub. 337, p. 7)

Researchers face delays of up to two years to access data, and the exclusion of key non-university research institutes from the scheme further limits its potential. To overcome this, the government must urgently reform the DATA scheme to streamline and simplify accreditation and create clear, efficient pathways for researchers to access vital public data. (Australian Information Industry Association, qr. 49, p. 6)

Communities, particularly Aboriginal Community Controlled Organisations (ACCOs), require access to government data to improve service delivery and outcomes. The DAT Act review highlighted that current legislation excludes these organisations, despite their central role in service delivery and public value creation. (Seer Data & Analytics, sub. 408, p. 12)

Digital ID

Participants highlighted Digital ID as a core element of Australia's digital infrastructure and advocated for its integration with other digital reform efforts, including the CDR.

We believe that digital identity is more important than CDR as a productivity enabler, particularly given the importance of retaining sovereignty. Digital identity is the on-ramp to the digital economy and can help address challenges like fraud, scams, cyberattacks, financial crime (e.g. Tranche 2 AML reforms) and age verification (e.g. for social media). We believe it should be a priority to approve digital identity solutions created by Australian entities aligned to the national interest. (Commonwealth Bank of Australia (CBA), sub. 35, p. 8)

A successful national digital identity ecosystem relies on citizen choice, interoperability and mutual recognition of digital credentials between the public and private sector. (Aidan O'Shaughnessy, qr. 2, p. 2)

Business-to-government reporting

Participants identified opportunities to streamline and modernise business-to-government reporting.

The Productivity Commission should investigate options for streamlining reporting obligations on industry, such as to ASIC, APRA, the ATO and ABS. (Property Council of Australia, qr. 64, p. 3)

[There is] an immediate opportunity to eliminate duplicative reporting requirements across agencies, as well as modernising business communications. (BCA, sub. 16, p. 2)

Submitting financial reports to ASIC is a new obligation for superannuation funds. ... This is now a dual obligation in so far as some financial reports are submitted to ASIC, while other extensive year-end reporting and materials are provided to APRA. (Super Members Council, qr. 37, p. 4)

Integrate ASIC, ATO, and ABN systems into a single Business Intelligence Hub for streamlined reporting and compliance. (Anonymous, qr. 15, p. 3)

[A] potentially ... effective way of reducing administrative burden with regard to reporting is to align formats and timelines for financial and non-financial reporting (e.g. mandatory sustainability disclosures). (ACCI, sub. 19, p. 18)

We support the Commission's consideration of mandatory digital financial reporting and recommend that pilots be expanded to include blockchain-native or distributed reporting models. (Digital Economy Council of Australia, sub. 15, p. 3)

There is a significant opportunity to leverage digital in streamlining reporting for businesses on gender equality. (Consult Australia, sub. 373, p. 5)

Digitisation and data sharing

Participants identified a variety of further opportunities for digitisation or data sharing.

Extend [the principle of mandating structured, interoperable digital reporting] to digital medicines reporting, e.g. adverse drug event reporting and medicines supply chain monitoring, to improve transparency and efficiency. (Advanced Pharmacy Australia, sub. 513, p. 9)

Supply chain data standards already contribute \$19–27 billion to GDP each year and could generate a further \$36–50 billion annually within a decade through wider adoption. These benefits are broad-based, lowering consumer prices, strengthening resilience, and supporting trade competitiveness. (GS1 Australia, sub. 415, p. 1)

A. Overview of engagement

Details of the consultation process and engagement methods for the inquiry are outlined below.

Consultation phases

Figure A.1 outlines the inquiry timeline and the key phases of consultation. In addition to the formal opportunities provided for participants to share their views, we also held meetings with participants and maintained a ‘5 pillars’ e-mail inbox open for correspondence throughout the inquiry.

Figure A.1 – Inquiry timeline and consultation phases



The responses received through Australia's Productivity Pitch are not summarised in this paper. A summary of what participants told us during this initial phase of consultation was published in February 2025. [Read Australia's Productivity Pitch](#).

Engagement methods

We gathered written feedback from participants through three main methods.

Online questionnaires

We developed a targeted questionnaire to explore specific issues related to four reform areas and to inform the direction of our interim report. The questionnaire included a mix of multiple-choice and open-ended questions, allowing participants to provide responses focused on particular aspects of the reforms. We also gave participants the option to submit additional documents to support their response. [Read responses to the consultation questionnaire](#).

Pre-interim submissions

Some participants chose to provide submissions by email instead of completing the online questionnaire. These contributions were viewed alongside the questionnaire responses when drafting the interim report.

Post-interim submissions

Following the publication of the interim report on 5 August 2025, we sought further input on the reforms through information requests included in the interim report. Participants were asked to upload their submission via an online webform, with an option for uploading supporting documents.

Participants were also given the opportunity to make submissions via video or phone call.

Other consultation

In addition to written responses, we held 193 meetings with organisations and individuals, including government departments and agencies, peak bodies, academics, businesses and consumer groups. These meetings were held on a confidential basis to enable open discussion and are not summarised in this paper. The discussions informed our understanding of the issues and contributed to the development of our reform areas and the draft and final recommendations.

We also held three roundtables on copyright, data access pathways and farm machinery and equipment data following the release of the interim report.

Participation

We received 75 questionnaire responses, 46 pre-interim submissions, and 728 post-interim submissions from across the Australian community.