



## **Consumer Data Right (Telecommunications Sector) Designation 2022**

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I, Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy, make the following instrument.

Dated 24 January 2022

Jane Hume  
Minister for Superannuation, Financial Services and the Digital Economy

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# Contents

1 Name.....	1
2 Commencement .....	1
3 Authority.....	1
4 Definitions .....	1
5 Designation of sector subject to the consumer data right .....	2
6 Specified classes of information—information about retail customers and users .....	2
7 Specified classes of information—billing and account information about retail supplies of products.....	3
8 Specified classes of information—information about products .....	3
9 Exclusions.....	4

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## 1 Name

This instrument is the *Consumer Data Right (Telecommunications Sector) Designation 2022*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under subsection 56AC(2) of the *Competition and Consumer Act 2010*.

## 4 Definitions

Note: Some expressions used in this instrument are defined in the Act, including the following:

- (a) designated information;
- (b) earliest holding day;
- (c) supply.

In this instrument:

*Act* means the *Competition and Consumer Act 2010*.

*associate* has the meaning given by section 318 of the *Income Tax Assessment Act 1936*.

*carriage service* has the same meaning as in the *Telecommunications Act 1997*.

*carriage service provider* has the same meaning as in the *Telecommunications Act 1997*.

*carrier* has the same meaning as in the *Telecommunications Act 1997*.

*communication* has the same meaning as in the *Telecommunications Act 1997*.

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**offer** means an offer for a retail supply.

**product** means:

- (a) a carriage service; or
- (b) a good or a service that is offered or supplied in connection with supplying a carriage service.

Examples: Pre-paid mobile phone plans, post-paid mobile phone plans, and broadband internet plans.

**supply** means a retail supply.

## 5 Designation of sector subject to the consumer data right

- (1) For paragraph 56AC(2)(a) of the Act:
  - (a) information to which section 6, 7 or 8 applies is specified as a class of information; and
  - (b) information to which section 9 applies does not fall within that class.

Note: The specified information is **designated information** for the purposes of paragraph 56AC(2)(a) of the Act.

- (2) For paragraph 56AC(2)(b) of the Act, carriers and carriage service providers are specified as persons who hold such information (or on whose behalf such information is held).

Note: Subject to section 56AJ of the Act, such persons will be data holders of CDR data within the specified classes.

- (3) For paragraph 56AC(2)(c) of the Act, the earliest holding day is 1 January 2022.

Note: Paragraph 56AC(2)(d) of the Act provides that an instrument designating a sector may specify the classes of information for which a person may, in certain circumstances, charge a fee. This instrument does not specify any such classes of information. The information specified in this instrument will, therefore, not constitute chargeable CDR data within the meaning of subsection 56AM(1) of the Act.

## 6 Specified classes of information—information about retail customers and users

Note: As a result of subsection 5(1), subject to section 9, information to which this section applies is **designated information** within the meaning of paragraph 56AC(2)(a) of the Act.

This section applies to information that:

- (a) is about:
  - (i) a person or other entity who has been or is being supplied a product; or
  - (ii) an associate of such a person or entity, who has used or is using such a product; and
- (b) was:
  - (i) provided by the person or entity in connection with the supply; or
  - (ii) provided by the associate in connection with the use; or
  - (iii) otherwise obtained, in connection with the supply or use, by or on behalf of the entity that holds the information, or on whose behalf the information is held.

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## 7 Specified classes of information—billing and account information about retail supplies of products

Note: As a result of subsection 5(1), subject to section 9, information to which this section applies is *designated information* within the meaning of paragraph 56AC(2)(a) of the Act.

- (1) This section applies to the following information relating to supplies of products:
  - (a) information about accounts in relation to which bills for the supply are sent (such as a number that identifies an account, and summaries of product usage and data usage relating to the account);
  - (b) information about bills issued in relation to the supply;
  - (c) information about arrangements for payments to be made in connection with the supply;
  - (d) information about payments in connection with the supply;
  - (e) information about concessions or rebates provided in connection with the supply;
  - (f) other information about such supplies that is used for the purposes of billing;
  - (g) how long until a contract relating to a particular product is due to end.

Note: Information to which this section applies includes information that would ordinarily be present on bills issued by a particular carrier or carriage service provider.

- (2) However, this section does not apply to materially enhanced information.
- (3) For this section, information is *materially enhanced information* if:
  - (a) the information was wholly or partly derived through the application of insight or analysis to information referred to in a paragraph of subsection (1) (*source material*):
  - (b) the insight or analysis:
    - (i) was applied by, or on behalf of, the person or entity that holds the information or on whose behalf the information is held; and
    - (ii) rendered the information significantly more valuable than the source material; and
  - (c) the derivation of the information was undertaken other than in order to meet a regulatory requirement.

Note 1: The information may have been derived entirely from source material, or from a combination of source material and other information. It is only necessary for the application of insight or analysis to render the information significantly more valuable than the source material.

Note 2: The application of insight or analysis may have rendered the information more valuable than the source material by enhancing its usefulness, usability or commercial value.

## 8 Specified classes of information—information about products

Note: As a result of subsection 5(1), subject to section 9, information to which this section applies is *designated information* within the meaning of paragraph 56AC(2)(a) of the Act.

- (1) This section applies to information about products that are or have been offered or supplied by carriers or carriage service providers.
- (2) Without limiting subsection (1), the information mentioned in that subsection includes information:

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- (a) that identifies or describes such products; or
  - (b) about the price of, or fees or charges associated with, such products; or
  - (c) about terms and conditions associated with such products; or
  - (d) about eligibility criteria; or
  - (e) about the term or duration of such products; or
  - (f) about bundling arrangements associated with such products; or
  - (g) about services that are available for customers who require additional assistance, such as customers with disability.

- (3) Without limiting this section, the information may relate to offers or supplies:
  - (a) to a particular class of person or entity; or
  - (b) to a particular person or entity.

## 9 Exclusions

Note: As a result of subsection 5(1), information of a kind to which this section applies is not *designated information* within the meaning of paragraph 56AC(2)(a) of the Act, even if it is information to which section 6, 7 or 8 applies.

### *Location data*

- (1) This section applies to information that would reveal where a person was when they used a mobile product.

### *Content of communications*

- (2) This section applies to information that would reveal the contents or substance of a communication that has been made using a product, other than a communication that:
  - (a) is related to an offer to supply, or the supply of, a product; and
  - (b) is between:
    - (i) the person who made the offer or supply; and
    - (ii) a person or other entity who received the offer, or who has been or is being supplied, or has used or is using, the product.