



10 October 2023

Department of Finance

Classification: Public

Via submission portal: <https://www.digitalidentity.gov.au/have-your-say/2023-digital-id-bill-and-rules-submissions>

Cuscal submission regarding the draft Digital ID Legislation and Digital ID Rules

Cuscal Limited (Cuscal) welcomes the opportunity to provide feedback to the Department of Finance regarding the draft Digital ID Legislation and Digital ID Rules.

Background to Cuscal

For over 45 years, Cuscal has leveraged its assets, licensing, and connectivity to provide intermediary and principal outsourcing activities on behalf of its clients. We are an end-to-end payments specialist that services more than 100 established ADI and challenger brand clients within Australia's financial system, including most of the mutual banking sector, and a growing number of corporate, FinTech and 'PayTech' enterprises. We enable their market connectivity so they may provide innovative products, business models, and drive improved customer outcomes.

We are an Authorised Deposit-taking Institution (ADI), the holder of an Australian Financial Services Licence, an Australian Credit Licence for Securitisation purposes and an Accredited Data recipient. Cuscal has Board representation with Australian Payments Plus (NPPA, BPAY, Eftpos), the Australian Payments Network and participates in numerous industry committees and forums.

As a fully PCI-DSS accredited ADI, Cuscal is uniquely placed to provide secure and robust capabilities that facilitate access to markets that would otherwise be beyond the reach of some organisations. The services that we provide to our client institutions include card scheme sponsorship for issuing and acquiring, payment card issuing, card production services, digital banking applications, access to domestic payment services using direct entry, BPAY, the New Payments Platform (NPP) and Open Banking Data holder platform services. We also act as settlement agent for many of our clients through our Exchange Settlement Account with the Reserve Bank of Australia (RBA).

Introduction:

Cuscal is generally supportive of the proposed draft Digital ID Legislation and Rules, subject to the feedback enclosed in this submission.

Penalties

- In general, Cuscal believes that to ensure trust in the Digital ID ecosystem by consumers and industry and promote a safe and secure environment, potential maximum penalties should be more aligned with the approach taken as part of Consumer Data Right legislation.





Children and Digital IDs

- ❑ Ideally, the age at which a person can create a Digital ID should align with the age at which a person can receive a form of personal identifier (e.g. a Tax File Number (TFN) can be received any age but must be signed by an adult until the child turns 13). However, given the Privacy Act states that a child can only provide informed consent from the age of 15, from a practical perspective, the age threshold for a Digital ID should align with the requirements of the Privacy Act. If there is an interest in reducing the age restriction to avoid unfairly disadvantaging children, 13 would make be a logical framework as 13-year-old children can also apply for a TFN on their own.

Phased approach

- ❑ Interoperability with existing solutions, will be paramount and should be designated and enforced under the legislation and rules. In preparation for phase 3, the Government will need to ensure it develops robust technical and oversight capabilities and is equipped to hold participants to account in terms of meeting technical requirements and the proposed implementation timelines. Reducing variability will also drive trust in the Digital ID framework. This can be done through higher penalties for non-compliance as well as through greater guidance to the industry through roadmaps, which allow for better planning by the industry.
- ❑ Guardrails on commercialisation should also be considered. For example, the ACCC could provide input on acceptable pricing frameworks, like the Reserve Bank of Australia's approach to interchange fees.
- ❑ The release calendar should be limited to once or twice a year to allow industry greater certainty and capacity for planning. Linking to known standards can also reduce confusion, e.g., FIDO.
- ❑ Early adoption programs with "champion" private sector-relying parties and accredited entities would help to identify gaps for a smoother transition at scale and ensure the AGDIS is ready for use by private sector relying parties and accredited entities.
- ❑ There have been limited proactive government-driven education and awareness campaigns to date. To encourage industry uptake and drive consumer participation, the government should commit to contributing to driving awareness of the phases and the overall solution benefits.

Voluntary use

- ❑ Cuscal believes that businesses should be able to mandate the use of Digital ID, with potential for exceptional circumstances to ensure accessibility. Digital ID is intended to reduce fraud and those who are less digitally literate or have other digital access restrictions, should be included on the journey, and facilitated by the government and industry to embrace the more safe and secure process of controlling and verifying their identity. Success of Digital ID will also depend largely on uptake and trust, which should include inclusivity at its core. Where some people are left behind, they are likely to become subject to higher risks of identity fraud.

Safeguards

- ❑ Cuscal recommends that all Digital ID accredited service infrastructure be designated as critical infrastructure to ensure there is a consistently high-quality approach to cyber safety and risk control processes in place across the industry.
- ❑ Further, entities should be required to uphold minimum availability standards and report on outages and overall downtime.
- ❑ To avoid confusion, Cuscal also recommends that individuals are required to provide express consent for all attributes to be shared, not just specific attributes.





Australian Digital ID Standards Chair

- Cuscal believes that to avoid unnecessary friction for accredited entities and consumers, an outline of how Digital ID and the CDR model will complement one another would be useful to determine the appropriateness of the Digital ID Standards Chair model.
- To maintain a progressive and vibrant Digital Id system, the Data Standards Chair could consider:
 - i) encouraging active participation by industry and standards bodies to ensure diversity of thought and insights into emerging technology trends;
 - ii) engaging with community to seek early feedback on technology adoption;
 - iii) establishing beta programs to test and iterate practical implications of latest technology.

In closing, we trust that our response will assist the Government in formulating its approach to the Legislative framework, and we look forward to further discussing our submission with you.

If we can be of any further assistance in the interim, please feel free to contact me at

[REDACTED]

Yours sincerely,

[REDACTED]

Kieran McKenna
Chief Risk Officer

