



**Consumer
Policy Research
Centre**

Consumer data, trust and ethics

Consumer and community
expectations

Energy Consumers Australia
20 February 2019

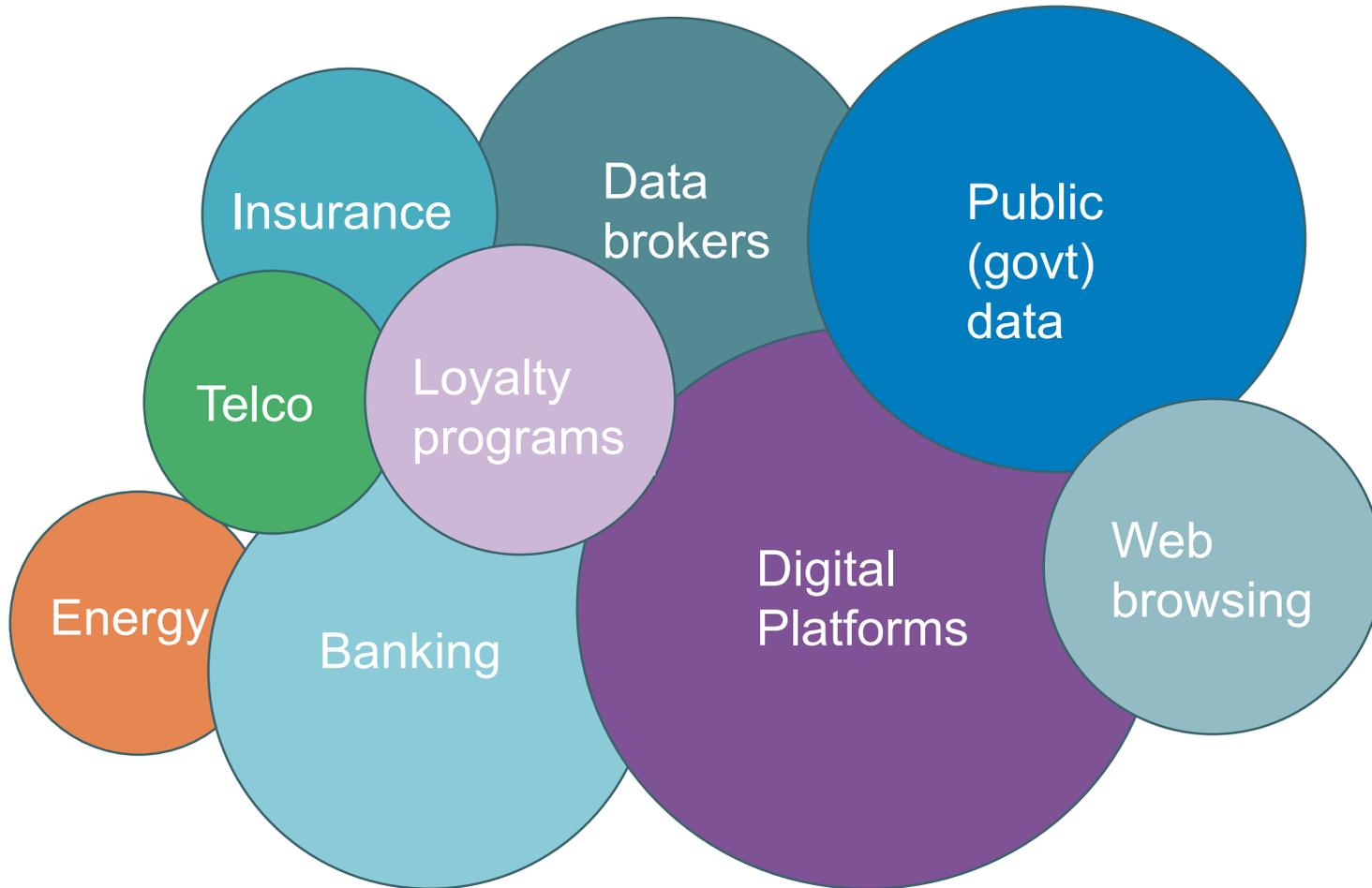
Lauren Solomon, Chief Executive Officer

Understanding the consumer data ecosystem



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Broader consumer data ecosystem



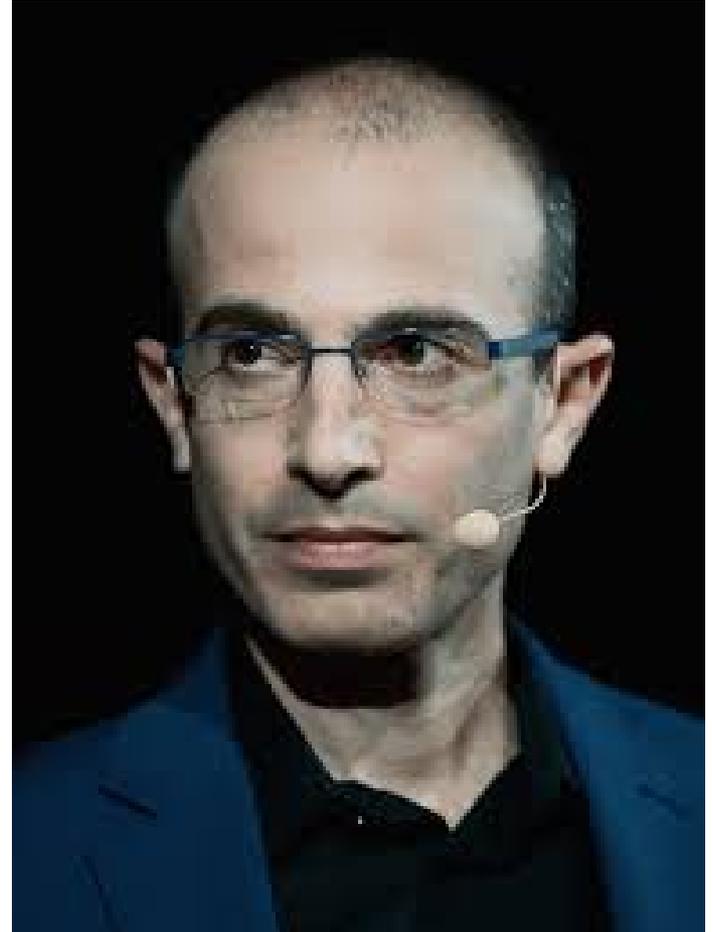
A few words of wisdom*

*they're not mine

Who owns the data?

“So we had better call upon our lawyers, politicians, philosophers and even poets to turn their attention to this conundrum: how do you regulate the ownership of data? This may be the most important political question of our era.”

Yuval Noah Harari,
21 lessons for the 21st century
Historian



Privacy as a human right



“My own point of view is that it's a fantastic start in treating privacy as a human right. I hope that in the United States we do something similar, and that the world converges on a common standard.”

Satya Nadella,
Microsoft CEO

Davos World Economic Forum, Jan 2019

International developments



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International developments

- Growing recognition of intersection between competition, consumer protection and privacy regulation
- The keys to *consumer choice* and *agency* are often enshrined in privacy and data protection law, such as:
 - Disclosure obligations of how the data is used, what it is and who it is being shared with
 - What the right of recourse is if things go wrong – deletion rights
 - Minimum protections and exclusions for vulnerable groups - minors
- Market power issues associated with large volumes of data being amalgamated without express, voluntary consent of consumers
- Growing interest in the policy community taking steps to resolve
 - Who owns the data?
 - Who shares value in the data that is collected and used?
 - What is the role of local vs international policy and regulation?

EU process leading up to GDPR

In the EU there was almost a 7 year process leading up to the 2018 enforcement of General Data Protection Regulation (GDPR):

- 22nd Jun 2011 – The European Data Protection Supervisor publishes an Opinion on the European Commission’s Communication, ‘A comprehensive approach on personal data protection in EU’
- 25th Jan 2012 - Initial proposal for updated data protection regulation by the European Commission
- 15th June 2015 – Legislation passed with two-year post adoption grace period, enforced May 2018.

Current data policy in Australia

Current data policy in Australia

	Consumer Data Right	ACCC Digital Platforms Inquiry	Data Sharing & Release Legislation
Type of data	Consumer (banking, energy telco)	Data collection, sharing, amalgamation and use	Public data, sharing between agencies
Key policy issues	Voluntary data portability	Market power, information asymmetry, lack of choice	Research, public investment
Consent & transparency	With consent – deviation from Privacy Act APPs	Recommends major reform to Privacy Act APPs	Removes consent Privacy Act APPs 3 and 6
Control & deletion	Withdrawal enabled, but no deletion rights	Deletion right explicitly recommended	No explicit right

Key issues

Transparency first

We can't effectively regulate what we don't fully understand

We can't as consumers act on what we don't fully understand

Research finds consumers are frustrated and disempowered

- Only 6% of Australians read all privacy policies that applied in the past 12 months.
- Two-thirds indicated they signed up even though they didn't feel comfortable and 73% did so because it was the only way to access the service.
- Consumers want options to opt out of certain kinds of information that is being collected about them, how it can be used & shared with others (95% CPRC, 90% ACCC)
- Only collect the data required to deliver the service (91% CPRC, 85% ACCC)
- Want companies to tell users who they are providing personal information to (91% ACCC)

A role for ethics?

Guiding principles in a time of uncertainty

A role for ethics?

- Bill of Rights for Nudging – Cass Sunstein
 - Privacy by Design, Ethical by Design – The Ethics Centre
 - Good Data Principles – Good Data, QUT
 - Facebook establishes AI Ethics Institute with \$7.5 million funding – Cathy O’Neil says “call me back when it’s \$7.5 billion”
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- ✓ Right to explanation
 - ✓ Right to be free of manipulation

A time for tolerance and diversity of views and experience

No single discipline has the monopoly on good ideas

Goals for good policy development

Development of a consistent economy-wide process to consider:

- How to improve transparency and build trust
- Empower consumers and citizens with agency
- Increase comprehension of consumers
- Protect fundamental rights
- Data ownership – is it shared?
- The value of data – how is it valued or could be priced?
- Adopt a precautionary approach to risk, especially for vulnerable groups
- Increase the capacity of regulators and policymakers
- Connect the various parts of government and stakeholder community to enable thorough discussion

Questions?

More here:

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