

Questions & Answers

WHAT IS THE LATEST ON THE PRDE?

In February this year, ARCA sought approval from the ACCC to operate the PRDE, as an industry developed system of sharing comprehensive credit information. The ACCC issued a draft approval in July.

Having heard from the community through two rounds of public submissions, the ACCC is nearing the end of the authorisation process. Earlier this month ARCA lodged its response to recent public submissions.

The ACCC is now determining whether to grant final authorisation.

PRDE FAQ 15 is the second issue of the series which focusses on Principle 5. This edition provides an in-depth view on each step of the dispute process.

HOW IS PRDE COMPLIANCE MANAGED?

The PRDE compliance process emphasises signatories being able to resolve issues between themselves. If concerns remain unresolved, it can be escalated to a peer review process. The PRDE also includes an appeal process to a legally trained Eminent Person. The three levels of compliance form a robust compliance mechanism.

CAN I TAKE COURT ACTION AGAINST A FELLOW SIGNATORY?

The PRDE emphasizes that disputes are solved between signatory parties, following the processes set out in the PRDE. Paragraph 65 of the PRDE states that signatory disputes must only be resolved through PRDE compliance measures.

HOW DOES THE DISPUTE PROCESS START?

The dispute process commences when a signatory or the Reciprocity & Data Exchange Administrator (RDEA) believes that another signatory is not compliant.

In the first instance, when a signatory believes there is a compliance issue, it makes contact with the signatory who they believe is at fault. Any suggestion of non-compliance is treated seriously but does need to be made in good faith.

IF THE DISPUTE IS RESOLVED IN 30 DAYS, WHO WILL KNOW ABOUT IT?

If the dispute is resolved within 30 days, only the signatories involved will know.

HOW DOES THE 30 DAY PROCESS WORK?

When a signatory believes that another signatory is not compliant with the PRDE they make contact with them to formally register that concern. The two signatories then have 30 days to consider the issues and work together to develop a solution. If they agree on a way forward, they record it in a 'Rectification Plan'. Where a Rectification Plan proposes to take longer than 30 days to resolve the issue, the signatories must notify the RDEA. The RDEA will then provide a copy of the Rectification Plan to other PRDE signatories who can object to the proposed Plan if one has been developed. If the signatories have made no progress, the dispute is escalated to the Industry Determination Group (IDG).

CAN A DISPUTE BE RAISED WITH A CREDIT REPORTING BODY (CRB)?

Yes. Any signatory can contact another signatory if they believe they have not been compliant.

WHAT HAPPENS IF A SIGNATORY DOESN'T AGREE WITH THE RECTIFICATION PLAN WHICH TWO OTHER SIGNATORIES HAVE AGREED ON?

When two signatories agree to resolve a dispute they develop a course of action, called a Rectification Plan.

If a Rectification Plan takes more than 30 days to be finalized, then the RDEA provides other PRDE signatories with a copy of the Rectification plan. Other signatories can then lodge an objection to it. If a signatory objects, they have an opportunity to work with the initial two parties on their concerns. This approach allows signatories to work together in reaching an outcome with the intention of them developing a new Rectification Plan. If the parties cannot agree on how to resolve the dispute, the matter is referred to the RDEA. Prior to this point the emphasis has been on the signatories solving the dispute themselves. If they cannot solve it themselves, the RDEA will then start the process of informing the Industry Determination Group (IDG) who will assist in resolving the matter.

HOW DOES THE IDG WORK?

Once the RDEA is notified of a dispute, it has three days to advise the IDG of that dispute. The RDEA does so by providing a report to the IDG on the issues involved. If more information is required, the IDG may ask the parties to provide more information or to attend an IDG meeting. Once the IDG have the information they need, they have fourteen calendar days to either provide a recommendation or direct the parties to conciliation. Conciliation is a further means for the signatories to resolve the dispute themselves. If the conciliation process is unsuccessful, the matter will then be referred back to the IDG.

WHAT IS THE PURPOSE OF USING A CONCILIATOR?

Using a conciliator enables the disputing signatories to meet in a confidential environment where they can express their concerns openly and freely. The conciliator will try and resolve the dispute. An RDEA representative will also be present.

WHEN IS AN EMINENT PERSON USED AND HOW DO THEY MAKE A DECISION?

Having the matter considered by an Eminent Person (EP) is the final step in the PRDE compliance process.

If a signatory disagrees with a recommendation of the IDG, they have fourteen days to appeal that recommendation. If a signatory appeals then the Eminent Person process commences. The role of the EP is to consider the information from the original report of the dispute and may request further information. They then have fourteen days to make a final decision on the dispute. The EP's decision is final and binding.

WHAT COMPLIANCE OUTCOMES ARE AVAILABLE TO BOTH THE IDG AND THE EP?

The PRDE offers four general outcomes to disputes:

1. The parties are compliant and no outcome is required;
2. The parties are given a formal warning;
3. The parties are issued with a directive – for example they may be required to provide training to their staff on the PRDE, and then to show evidence of compliance; or
4. Signatories may be forced to drop a tier level for a period of time.

As per paragraph 91 of the PRDE, the four general outcomes should be seen as an escalated process if a signatory continues to remain non-compliant.

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