

AT WHAT COST?

The price renters pay to use RentTech



APRIL 2023

CHOICE

ABOUT US

CHOICE is the leading consumer advocacy group in Australia. CHOICE is independent, not-for-profit and member-funded. Our mission is simple: we work for fair, just and safe markets that meet the needs of Australian consumers. We do that through our independent testing, advocacy and journalism.

To find out more about CHOICE's work visit www.choice.com.au

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This report was authored on Gadigal land. CHOICE acknowledge the Gadigal people, the traditional custodians of this land on which we work, and pay our respects to the First Nations people of this country. CHOICE supports the First Nations people's Uluru Statement from the Heart.

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INTRODUCTION

In recent years, a new industry has emerged in the Australian real estate market – for-profit renting technology businesses (‘RentTech’). People who rent are increasingly pressured to use these technologies to apply for properties, make rental payments, request maintenance and communicate with real estate agents or landlords.

The current rental market crisis and growing risks of data misuse have amplified the risk of harm that these technologies pose to consumers. The national median rent increased by 10.2% in 2022, and there was a 27% increase in renters seeking homelessness services in the past four years.^{1,2} In this context, renters have even less ability than normal to shop around or refuse to use RentTech. Meanwhile, data privacy and the rise of automated decision-making have also become pressing concerns, from high-profile breaches at Optus³, Medibank⁴, and the real estate agencies Harcourts⁵ and LJ Hooker⁶, to the harmful algorithms used by the Robodebt scheme.⁷

Access to renting – an essential service – is becoming more digitally mediated. People who rent should expect assurance that their personal data is secure, that their cost of living doesn’t unfairly increase, and that their data isn’t being used to exploit or harm them.

This report explores the consumer experience of these business practices using a national survey of renters and landlords; testimonials from renters; academic and media reports; and CHOICE’s original investigative and editorial work. It examines what additional protections renters need from rental technologies.

Consumer problems

CHOICE has found four major areas of concern in RentTech for people who rent that require action from policymakers and business:

1. Lack of choice: Renters are increasingly forced to use third-party rental platforms instead of conventional methods to apply for rental properties, pay rent, or request maintenance or repairs.



2. Data insecurity: Third-party rental platforms can collect and store more data than traditional methods such as paper forms and online forms hosted by real estate agencies. This data is not only prone to data breaches, but can also be monetised and used in surveillance.



3. Added costs: RentTech is being used to force or encourage tenants to pay additional fees. These include fees for paying rent, penalties for failed payments, and the cost of their own background checks.



4. Invasive technologies: Advances in RentTech have introduced automated decision-making systems in rental application assessments and surveillance of people who rent. Without regulatory oversight, both of these functions may increase barriers and discrimination for consumers.

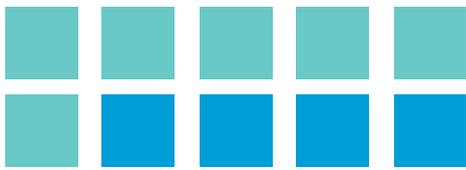


Our findings



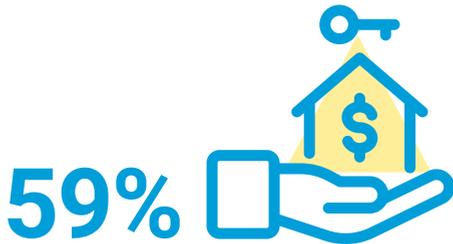
41%

of renters were pressured to use a third-party platform by their agent or landlord.



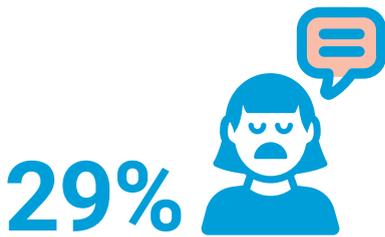
60%

of renters were uncomfortable with the amount and type of information collected.



59%

of landlords who used RentTech said it was required or recommended by their agent.



29%

of renters have opted not to apply for a rental because they didn't trust the RentTech platform.



25%

of people who rent have paid for a tenancy check.



21%

of young renters (aged 18–34) reported a tenant score was used to assess their application.

Recommendations

CHOICE recommends federal and state governments take the following steps to ensure that renters are appropriately protected from the risks created by RentTech:

- 1. Reform the Privacy Act:** Australia's privacy laws are outdated and not fit for purpose. Work is currently underway to address these through the Attorney-General's Department's review of the Privacy Act. In order to protect renters from poor conduct, the *Privacy Act 1988 (Cth)* should be amended to include:

 - a. Clearer rules on how data is collected and used, ensuring fair and safe outcomes for consumers;
 - b. A new definition of "personal information" that is fit for purpose in today's digital environment;
 - c. Mandatory Privacy Impact Assessments for businesses engaging in practices with high privacy risks;
 - d. Removing the small business exemption from the Privacy Act, so that it applies to all RentTech businesses, regardless of size.
- 2. Federal inquiry into automated decision-making (ADM):** Australia requires more regulations and enforcement on the use of automated decision-making and artificial intelligence (AI). A federal inquiry should consider how businesses use ADM and AI to determine prices and consumers' access to their services.
- 3. Economy-wide ban on unfair trading:** People who rent need legal protections from unfair trade practices. CHOICE is calling for a new economy-wide prohibition of unfair trading practices in the Australian Consumer Law, as recommended in the ACCC's Digital Platforms Inquiry report.⁸
- 4. Modernise state and territory residential tenancies acts:** State and territory residential tenancies acts have weak and inconsistent laws that fail to adequately protect people from third-party rental platforms. State and territory governments should enforce fee-free rental payment options and fee-free access to tenants' information in databases, and prohibit invasive application questions.

RENTER'S JOURNEY USING RENTTECH



METHODOLOGY AND SCOPE

Methodology

Data for this research was collected from a variety of sources, including:

- **Survey:** CHOICE conducted a national survey of 1020 people who rent and their experiences of and sentiments on renting and rental platforms, as well as a national survey of 502 landlords about their experience with rental platforms.⁹
- **Case studies:** CHOICE interviewed a number of renters, including CHOICE supporters, who have had issues with rental platforms. The Tenants' Union of NSW also provided some case studies that included details of the issues that arise from third-party rental platforms for some renters. These examples also provided insights into elements of RentTech not addressed in the survey. All renter case studies are de-identified.
- **Stakeholder consultation:** CHOICE interviewed a wide range of experts, including housing researchers, tenancy advocates, and privacy experts. CHOICE also contacted the top five commonly used third-party rental platforms according to our survey (2Apply, 1Form/Ignite, Snug, Rent.com.au, and tApp) with a list of questions about their practices, and all but tApp responded.
- **Investigative journalism:** This research was informed by CHOICE investigations into third-party rental platforms, including an analysis of RentTech privacy policies.

Scope

This report will use the terms 'RentTech' or 'third-party rental platforms' to encompass a wide variety of tools, services and businesses that are increasingly relevant to the tenant experience. This can include technology used for searching for a rental property, applying for a rental property, making rental payments, and logging maintenance issues and requesting repairs.

PropTech is a broader term used by industry to apply to areas such as property management, construction tech, smart cities, investment, and transactions.¹⁰ For a detailed explanation of terminology evolution, see the appendix.

Short-term accommodation digital platforms such as Airbnb are excluded from the study, as are online share house platforms (e.g. community-managed Facebook groups, Flatmates.com.au etc.) that aren't used to mediate an official tenancy. These are however areas of interest that CHOICE may explore in future work.

RENTTECH ECOSYSTEM



A NEW OBSTACLE FOR RENTERS

Prevalence

RentTech is increasingly involved in the process for applying for a tenancy in a rental property. Conventionally this process could involve paper forms, emails, or websites operated by the landlord or real estate agent/property manager. Now, the application process can also be externally managed online by a third-party rental platform.

CHOICE's national survey found that a significant number of renters were presented with the option to apply through a third party in their last application – either through a third-party website (27%) or a third-party app (18%). Older renters were also far less likely to have used a third-party rental platform than younger renters. This data suggests increasing prevalence of third-party rental platforms with newer renters entering the market, but also potential technological barriers or lower awareness for older renters.

The RentTech market is diverse, but mostly dominated by a few companies. In the CHOICE survey, the two biggest third-party platforms used were 2Apply and Ignite (formerly 1Form and owned by REA Group). Of those renters that had ever used rental platforms, more than a third (37%) had used 2Apply and 31% had used Ignite. The next most commonly used platforms were Rent.com.au (19%)¹¹, Snug (9%), tApp (8%), OurProperty (8%) and Tenant Options (7%).

RentTech in the media and academia

In the last few years, the immense amount of information required by real estate agents¹² and the potential for tenancy databases to be exposed has been under greater scrutiny.¹³ A report from the Australian Housing and Urban Research Institute addressed emerging apprehensions about PropTech, including its potential for furthering discrimination¹⁴. In the United States, an investigation by ProPublica alleged that PropTech software YieldStar was being used to unfairly increase rents across US cities with aggregated data and uncompetitive practices.¹⁵

Domestically, data breaches at Harcourts¹⁶ and LJ Hooker¹⁷ real estate agencies near the end of 2022 indicate the growing level of risk to renters from the use of digital platforms to collect and store personal information. The Harcourts incident reportedly affected both tenants and landlords, with personal information potentially breached including names, addresses, phone numbers, signatures and photo identification.

Of those renters who had ever used rental platforms:

37% had used 2Apply



31% had used Ignite



19% had used Rent.com.au



9% had used Snug



8% had used tApp



8% had used OurProperty



7% had used Tenant Options



PROBLEM 1

USE IT OR LOSE IT: RENTERS HAVE LITTLE CHOICE



While looking for rentals through local real estate agents in a regional town, Olivia identified a property that she wished to inspect before considering whether it was right for her. Olivia contacted the real estate agent to see if a time for an inspection could be arranged and was told that all prospective tenants must make an application through Snug before they can inspect the property. Olivia was told this was non-negotiable. She did not wish to create an account with Snug and provide extensive personal data only to inspect a property that she was not even sure was going to be suitable for her. She continued looking, but then discovered that more real estate agents in the town also had the same process in place with Snug and inspections, making it extremely difficult for her to find and inspect rentals without having to engage with Snug or similar requirements. Regardless, Olivia elected to avoid agents which imposed these requirements as she continued her search for a home.*

Olivia, Renter.
Story supplied by Tenants' Union of NSW*

Many renters are required to use third-party rental platforms

For renters looking to find a new home, applications via RentTech may be presented as the only choice. CHOICE found that for half of all renters who applied via third-party platforms for their most recent application, the main reason to do so was because it was a requirement. In comparison, renters who used other application methods were less likely to report being pressured to use one option – less than a third of respondents who used other methods reported their main reason for doing so was because it was a requirement.

Overall, many renters are feeling pressure to use third-party rental platforms when applying. 41% of renters

have felt pressured to use a third-party service to apply for their rental by an agent or landlord at one time or another, with 11% of renters stating this frequently occurred. This is despite renters finding third-party rental platforms the least preferable method to submit a rental application.¹⁸

41%

41% of renters were pressured to use a third-party service to apply for their rental by an agent or landlord, with 11% of renters stating this frequently occurred.

Landlords who have used a third-party service reported this was often due to real estate agents – 38% saying it was required by the property agent, and 21% saying it was recommended by the property agent. Just a quarter stated they had suggested or implemented it themselves.

Renters prefer conventional application methods

People who rent indicated that they considered conventional methods of applying for a rental as more convenient than newer methods provided by RentTech. 47% of renters who used paper forms in person and 40% of renters who delivered a digital version of a paper form reported convenience as a reason, compared to 29% of renters that used a third-party app for convenience. Just over one in five (22%) renters that used a third-party app or website also saw it as an easy way to apply for multiple rentals.

Renters were less likely to prefer third-party services over conventional methods to apply for a rental. Only 23% of renters reported preferring third-party services, compared to 67% of renters who preferred conventional methods.¹⁹

Renters frustrated and disadvantaged by user experience and design flaws

One CHOICE supporter said she found the maintenance app required by her agent, OurTradie (by OurProperty), a “nightmare”.



“My first winter in this property, my electric oven/stovetop just stopped working. I checked fuses and asked my builder neighbour to have a look, just to see if there was a simple issue. We couldn’t find any, so I contacted the agent, and was told to fill in a form via their “maintenance portal” to investigate the issue. I did so, and was accused of damaging the property, and that if it was found to be my actions that caused the problem, I would be liable in full. Meanwhile, my local agent had alerted the owners, who were distressed at my not having means to cook etc. – and approved a replacement appliance that was ordered online and delivered (during lockdown). The oven sat on the porch for over two weeks as I tried to contact the appropriate person via the “portal”, only to be told they had lost the initial request... Finally an electrician was sent to install the oven, and he discovered that there was a loose connection on the original, which could have been fixed in minutes, had my first contact been acted on. Three weeks of my not being able to cook, hundreds of dollars in unnecessary cost for the new appliance, fees spent on the electrician and portal access – no apology whatsoever.”

Doris*, Renter²⁰

Another renter reported that an app required her to make a false statement and agree to forego her legal rights in order to submit a request.



Louise is a renter in Dubbo whose real estate agent recently switched property management of all rentals they manage over to a rent management app. Louise felt forced to sign up for this app in order to maintain her rental. When the need for repairs arose, Louise was no longer able to contact her real estate agent through phone or email as she previously had – she instead had to put in a repairs and maintenance request through the app. In order to submit the request, she had to tick a box stating that if the damage were shown to have been caused by Louise herself, she accepted responsibility and would bear the cost of paying for the repairs. She did not want to tick this box, but the app would not let her submit a repair request without “agreeing”.*

Louise*, Renter.

Story supplied by Tenants’ Union of NSW

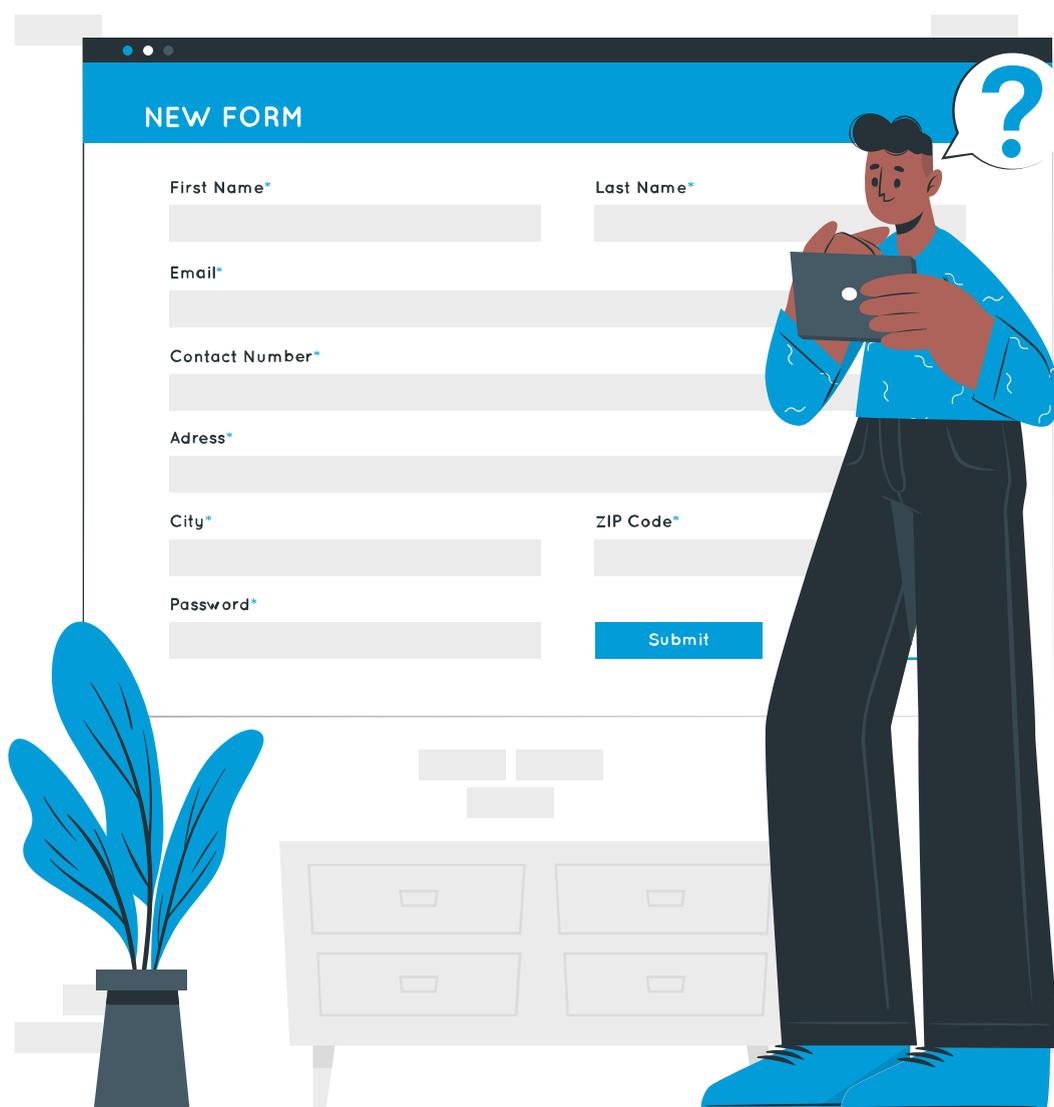
Applications through third-party rental platforms also provide little choice in which questions to answer, either because the questions are mandatory, or because completing fewer questions limits the “score” an application receives (discussed more in Problem 4). The rental platforms take differing approaches to the customisation they allow. For instance, 2Apply told CHOICE that questions are determined by each agency, agent, and property owner, whereas Ignite does not let agents customise or add to the form. Snug provided a detailed explanation of how they determined their standardised question set, but added:

“Agents are unable to customise the question wording, however [they] may include or exclude questions, and make mandatory or optional various sections of the Snug form based on their market dynamics, portfolio, policy and property owner preferences. For example, community housing providers in the affordable rental space can include the additional disclosures required for their program to assess eligibility.”

Rent.com.au also added that most of their questions are optional:

“The information we ask (questions) is what is required for a rental application, [and] whilst exact content needed does vary between agencies (some want more), we follow the standard fields as used by other application processes and per the REI [Real Estate Institute] guidelines. We also make most fields optional (at the renter’s discretion) and allow renters to enquire on a property with just contact details.”

Renters are increasingly pushed to use third-party rental applications, with little or no choice on the application process they prefer. The types of questions and information required is at the discretion of real estate agents, landlords, and third-party businesses.



PROBLEM 2

OPEN FOR INSPECTION: RENTERS FACE DATA INSECURITY



“We were given no choice with 1Form, because the property agent would not accept applications any other way. But I felt uncomfortable sending them details of our investments, cash in bank, more than one identity verifiers, utility bills, marriage certificate, motor vehicle registration details, tenant ledger report, references, copy of pension card, and so on. I felt we could easily be identified by simply showing our photo ID on driver’s licences.”

Jose*, Renter

Applying for a rental can require extensive amounts of personal information such as identity documents, employer and tenancy references, and proof of income. Data security and privacy are therefore central to conversations around renting and RentTech. High-profile data breaches at Optus and Medibank were followed by smaller but still harmful data breaches at the real estate agencies Harcourts²¹ and LJ Hooker.²² 2Apply’s parent company InspectRealEstate suffered a minor data breach before closing security vulnerabilities in 2015²³, and allegations have been raised against REA Group for breaches of 1Form data.²⁴ The amount of data RentTech businesses hold has generated interest in the media on data security and privacy issues that could arise if more breaches occur.²⁵

Rental applications require uncomfortable levels of data



“I seek rental accommodation and this week one agent emailed me to say I needed to complete an application form (in full) on Tenant Options (a website) before she would even consider me to view a rental property ... (I called and asked for a paper application form and she refused on the grounds she had too many applications). Tenant options website asks for everything (including driver’s licence number, and past addresses, proof of income, accountants details, next of kin and more). I am very concerned that this website could be hacked and my ID stolen. I am also concerned that finding a new rental is turning into a very onerous and demanding process – this is extreme...”

“I think it’s data misuse/abuse of their power position – it’s onerous, dangerous and unfair to tenants to have to provide so much detailed personal information ...”

Jane*, Renter

Most renters (60%) reported being uncomfortable with the amount and type of private information requested in their rental application. Over half did not understand why some private information was asked of them during the process, and over a quarter of renters reported not applying for a property due to the information that was demanded.

While renters have privacy concerns across all methods, third-party services appeared to be the least trusted. Renters who preferred paper form applications were more likely than renters who preferred third-party platforms to see their preference as a means to protect their private information. 29% of renters had opted at least once to not apply for a rental because they did not trust the third-party service involved.

Renters are accepting of the need to provide distinct pieces of personal information. Aside from bank statements, the majority of renters believed individual verifications of identity and employment were appropriate to request in a rental application. However, the total amount of information required concerns them.

Types of information that may be requested

- Driver’s licence
- Proof of income / pay slip(s)
- Medicare card
- Bank statement
- Passport
- Contact details of a personal reference
- Employment contract / proof
- Employment history
- Utility bill – electricity, gas, phone
- Contact details of a current or previous real estate agent / landlord
- Reference letter from current or previous real estate agent / landlord
- Birth certificate
- Evidence of current and past living arrangements
- Reference letter from a personal contact
- Credit check
- Australian visa
- Credit / debit card history
- Proof of age card (government-issued)
- Australian Taxation Office notice of assessment
- Marriage certificate
- Certificate of Australian citizenship
- Tertiary student Identification card
- Council rates or land valuation with current address
- Change of name certificate
- Australian mortgage documents
- Medical history

Additionally, major power asymmetries exist between consumers and data collectors, including knowledge asymmetries on how the data is being used, what types of data are actually necessary for a service, and what the consequences of data misuse may be.²⁶



“When I was last applying for a rental (about a year ago) I found that some agencies required you to apply through 2Apply using the TenantApp or 1Form. Some agencies did not accept these and wanted you to use forms on their website. I found all of the apps and website forms required a lot of personal information. I think they require too much detail... Any application should just ask for the minimum required information (as legislated by the state) and if the owner/agent wants more info, then they should call and send an email CC’ing in all related parties to request that information and justify why they need it.”

Therese*, Renter

Renters have reason to be concerned about data security on third-party rental platforms. People who rent are not adequately protected by legislation regarding their privacy and the questions that are asked in rental application forms. While best practice standards exist, such as the NSW Fair Trading Commissioner’s recent guidance²⁷, property managers and third-party rental platforms are currently free to ignore these unenforceable guidelines.

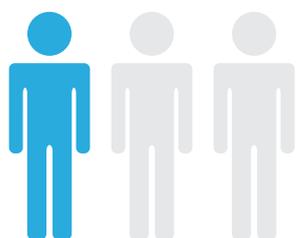


“Having our bank details on a third-party site is making us extremely nervous ... If a data breach happens through Simple Rent, what will happen to our account, especially when only one of us is currently working? ... With no way to change this, we are at the mercy of the real estate agent, their fees through Simple Rent, and the cyber security of Simple Rent itself. If anything happens to our data, we very much doubt the real estate agent will take any responsibility for it.”

Bill*, Renter

Most renters want legal protections – and many aren't sure if they are protected

The CHOICE survey reveals a lack of awareness from renters about their legal rights around private information. Almost half of renters are unsure or undecided if Australian laws protect their private information that is given to real estate agents and the platforms they use. Almost all renters (85%) agree real estate agents should be legally required to ensure they never pass on rental application details, yet only 36% trust real estate agents to protect their private information.



Only 36% of renters trust real estate agents to protect their private information

CHOICE reached out to the five most commonly used platforms about their data and application practices. When asked “do you use any data gathered during the application process for either analytics or marketing purposes, including anonymised or aggregated data?”, REA, Snug, and Rent.com.au all said they used anonymised and aggregate data to improve their services. REA and Snug noted they shared information with utility providers if renters wished; Snug also suggested they use their data to “improve renting and encourage housing security and stability”, and Rent.com.au suggested they use their aggregate data as a “way to amplify the voice of our renting community” and understand broader renting trends. 2Apply simply said “no”, and tApp did not respond.

Snug and Rent.com.au also state that users can opt out of and into marketing emails. REA Group said rental applicant data wasn't shared with any of their other internal products, services or commercial activities. Snug added that it redacts sensitive identity document information after 60 days and withdraws incomplete applications, while REA Group added that they remove sensitive attachments such as identification documents after 21 days, and remove the whole application 21 days after a property is leased.



PROBLEM 3

IS THAT YOUR FINAL OFFER?: RENTERS FACE ADDED COSTS

As for-profit businesses, RentTech companies are encouraged to find new avenues for generating revenue, and these have created further potential costs for prospective and current tenants. CHOICE found that costs could be added to the application stage and through rent payment systems.

Ready to make your application stand out?
Choose the option that suits you. Your Identity and Background Check can be used on any 2Apply application for three months from the date of purchase.

Premium Check	Basic Check
\$29.95	\$19.95
Verify your identity and reliability <ul style="list-style-type: none"> ✓ Help verify who you are ✓ Speed up your application processing ✓ Prove you're a reliable and trustworthy tenant ✓ Tenancy History Check ✓ Court and bankruptcy check 	Verify your identity <ul style="list-style-type: none"> ✓ Help verify who you are ✓ Speed up your application processing
Request Check	Request Check
How does it work? ▾	How does it work? ▾

Supplied screenshot of 2Apply background check.

Rental platforms reward renters for paying for their own background check

Some third-party rental platforms controversially allow applicants to pay for a background check to improve their chances of acquiring a rental property, with 25% of renters surveyed reporting they have paid for a tenancy check. Investigations into third-party rental platforms – particularly 2Apply – found renters felt pressured to pay for their own background check, spurring further investigations by state regulators into whether this breached laws that prohibited application

payments for rentals.^{28,29} Ordinarily, the cost of a background check would fall on a landlord or property manager.³⁰

Following these investigations, South Australia is reportedly outlawing charging for tenant background checks. 2Apply is removing their star system in response (discussed in section Problem 4), while REA Group has defended the practice as voluntary and Snug has stated its strong opposition to the changes.³¹

2Apply again made news more recently for a new product: 2Apply Verify. For \$20, applicants can authenticate their identity on applications for three months without disclosing identification documents to real estate agents.³² The previous section of this report demonstrates renters' desire for increased privacy over their data, but 2Apply's model monetises these basic protections.

Rental platforms reward renters who offer to pay extra rent

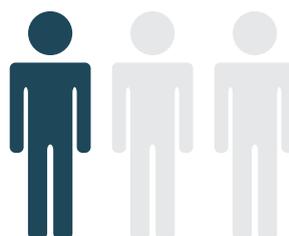


“Both tApp and 2Apply will invite you to specify how much rent you are willing to pay. This is essentially a blind auction, as you have no visibility into the bids which have been lodged by others and so you’re almost guaranteed to overpay if you decide to bid and you’re desperate. Rent bidding is technically legal³³ in New South Wales, although the government is trying to clamp down real estate agents listing prices as negotiable or explicitly asking people to bid. However, these forms allow people to specify whatever price they will pay, which is essentially an invitation to bid. Given that attending inspections and making applications is a chore, I’d prefer it if I was not having to waste my time attending inspections where someone else outbid me.”

Elijah*, Renter

Many renters already feel pressured to increase their offer to acquire a rental: more than a third of renters have increased their offer to secure a rental, a fifth of renters have been asked by a real estate agent to pay to apply for a rental, and 18% of renters have conceded to this request.

Rent bidding is now prohibited in NSW, Victoria, and Western Australia, but some third-party rental platforms still allow renters to offer a higher rent than advertised to boost their application.^{34,35} For instance, *The Guardian* found that a Snug user's "score" would grow as their rental offer increased.³⁶



A third of renters have increased their offer to secure a rental

“Renters are seeing their scores go up when they offer more for a property. Looking at this in the inverse, renters are unable to receive a higher score unless they offer more for a property. Practices like these threaten to drive up rents and worsen the housing crisis.

“Rent bidding regulations have been implemented across several states to prohibit the solicitation of higher offers. Unfortunately, these protections haven't stopped Snug from rewarding prospective tenants with a higher 'Match Score' when they have offered more for a property.

“There is a clear need for stronger regulation of technologies that mediate people's access to housing.”

**Interview with Linda Przhedetsky,
Associate Professor at UTS**

Renters forced to use rental platforms that charge them added fees

Renters are also increasingly being pushed into third-party payment options with added fees, despite fee-free options being mandatory in NSW, Victoria, Tasmania, and South Australia. However, these fee-free options are sometimes unreasonable, outdated, or onerous, such as paying in cash or cheque in person at an office outside their own city.³⁷

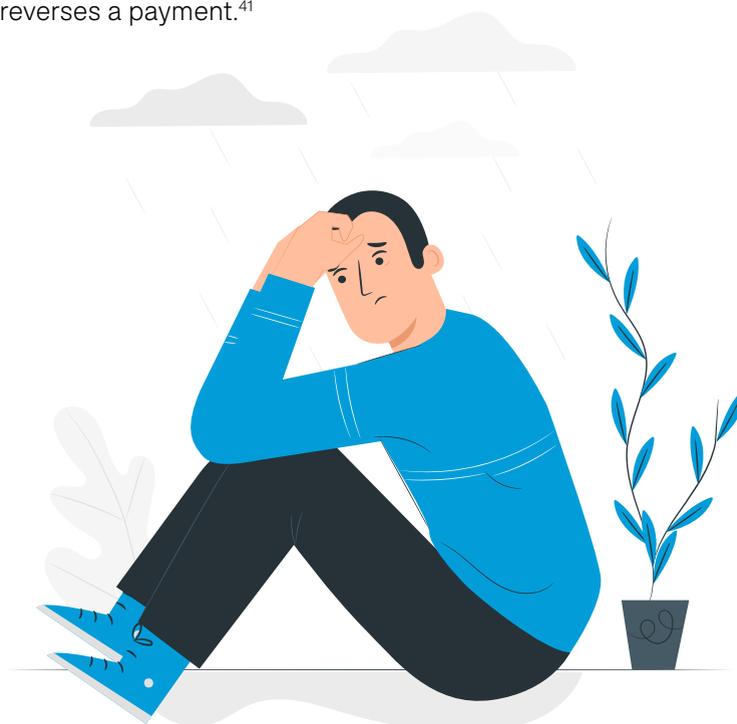
One renter, Stacy*, told CHOICE that she challenged her property manager's demand to use Rental Rewards after she reviewed the terms and conditions. After requesting the fee-free option she was entitled to, her property manager asked her to pay in cash at their office once a month, and then through cheques during lockdown, and finally accepted bank deposits when no one in the agency was available to process the cheques.

Many states also prohibit extra costs on top of rents, such as administrative or late fees, while Western Australia, for example, explicitly directs landlords and/or property agents to bear the cost of these fees if required by a payment platform.³⁸ Despite this, some third-party rental payment platforms charge fees. For instance, Ailo had payment fees ranging from 0.25% to 1.5% depending on the method (although these fees are currently waived while Ailo reviews their payment methods).³⁹ Reports from renters allege this fee is sometimes passed onto renters. Rental Rewards charges a "convenience fee" for rent paid through its system, and allows agents to select an "apply convenience fee" option to pass the surcharge onto renters.⁴⁰ Kolmeo's terms of use for tenants states fees will not be charged when prohibited under residential tenancies legislation, but does list standard BPay and credit/debit card fees as well as a \$38.50 chargeback fee when a card network reverses a payment.⁴¹



"I signed a new lease in June 2021 with a real estate agency that outsources their rental payments to a third party, Rental Rewards. The cheapest option was direct debit at \$1.50 per month, and even though I knew that they were required to offer a fee-free option, I didn't push it as it had been hard enough finding a new rental in a lockdown and that allowed pets. My rent is debited on the 30th of every month to match when I get paid, except in February when there is no 30th of the month. Rent in February 2022 came out on the 28th which I had anticipated, however I ended up noticing that in March and April a \$15 fee had been deducted along with my rent. I logged into the Rental Rewards portal to see that the system had automatically changed my future payment dates from the 30th of the month to the 28th without informing me, making me late on my rent payments two months in a row. There was a charge of \$1.50 to change the date back to the original. I know I should have challenged the late fees with my agent however effort and time-wise I decided it was easier to let it go."

Emma*, Renter





“I use an app/service called Ailo to pay rent for a house managed by Ray White. To put it mildly, it’s a blatant money grab by the real estate agent ... Previously we paid rent by direct debit, with a fee for that ‘privilege’ – which always annoyed me. Then we were forced onto Ailo with an even bigger fee for simply having an automatic rent payment.”

Ria*, Renter



Percy is a renter who was signed up to a third-party rent payment service. Each week, the day his pension money was paid into his bank account was one day after the third-party rent payment service sought the transfer of rent money from his account, meaning he often didn’t quite have enough money in his account to cover his rent. This happened week after week, and each time Percy didn’t have enough money in his account, he incurred a default fee. By the time Percy sought assistance from the Tenants’ Union, he was owing more money to the third-party rent payment service in default fees than an entire week’s worth of his rent.

Percy*, Renter.

Story supplied by Tenants’ Union of NSW

Third-party payment platforms sometimes charge fees as a result of failed payments, including instances when the renter is not at fault or it was due to an administrative error. The automation of these penalties can cause stress and financial harm to renters who may see little in the way of redress. While late payment penalties are banned in many states, recovering the cost of failed payments are not, and therefore platforms can apply a functional penalty for late payments without a grace period.



PROBLEM 4

KEEPING SCORE: RENTERS FACE INVASIVE TECHNOLOGIES



“It’s that whole thing of when a computer [and] when algorithms are encroaching more and more in the lives of poor people. And these systems, whether they’re government systems or private systems, are being given decision-making power that in no way can comprehend the complexity of our lives or our capacity, whether that’s capacity to work or capacity to pay rent.”

Maria*, Renter

Third-party rental platforms provide landlords and property managers with tools to screen out or in prospective tenants based on their income and/or employment status, lifestyle, previous rental history, or other criteria. CHOICE’s survey showed 5% of renters have received a score, 6% haven’t received a score but were told that a score was used, 21% couldn’t recall or didn’t know. Interestingly, a tenth of renters aged 18–34 received a score, while another 11% of them were told a score was used.

The rapid rise of RentTech in an unregulated market raises concerns for how these technologies could create new and increased problems for some renters.

Automated tenant scoring can facilitate discrimination

“When [real estate agents] are assessing all the applications, they’re running a risk assessment over the whole group, and they’re deciding who represents the least risk, essentially. That usually means highest income, most stable employment and so on. But they’re getting so many applications that they’re finding more and more ways to cut down the pool of people who they actually have to consider.

“So the more they ask about different aspects of your life and get you to fill out the form, the machine can just ... say to the real estate agent, you don’t need to worry about looking at 80% of these people. That’s really what’s happening. The amount of information that’s asked for is used mainly for the purpose of excluding you from finding a home.

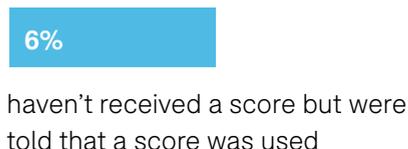
“The application process is an unregulated area. We have very light and ineffective discrimination laws that do apply, but they’re also laughably easy to get around. Essentially they’re not there...”

**Interview with Leo Patterson Ross,
CEO of Tenants’ Union of NSW**

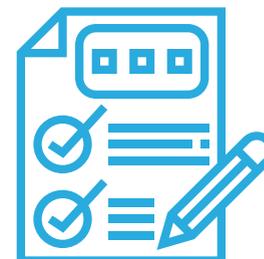
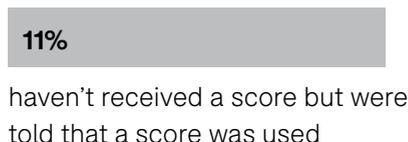
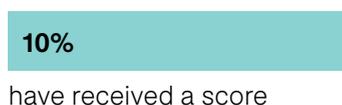
Renters in Australia have few protections from exploitative and unfair automated systems. A lack of regulations in RentTech gives landlords and real estate agents an immense power to gate keep housing. Renters need robust and contemporary regulations to ensure their right to housing is protected.

Renters' scores

All renters



18–34 year olds



The CHOICE survey showed that 5% of renters have received a score, 6% haven't received a score but were told that a score was used, and 21% couldn't recall or didn't know. Interestingly, a tenth of renters aged 18–34 received a score, while another 11% of them were told a score was used.

Snug produces a “Match Score” for rental applicants that indicates their suitability to the landlord and rental property. Property managers are able to see the scores and create their shortlist from there. Snug states they do not disclose the proprietary details of their algorithm, but told CHOICE the Match Score is based on:

...property owner preferences, property data, rental application attributes (start date, rent and term), renter profile completion (non-discriminatory, universal, platform-wide weighted contribution from the renter profile) and market conditions (not currently utilised in the Match Score).

Agents can then change the priority of attributes based on affordability or owner preferences.

The Match Score has been accused of being “potentially discriminatory” by Associate Professor Linda Przhedetsky, due to the attributes potentially used to generate it.⁴² Despite such concerns, Snug has recently been contracted by Homes Victoria to build a platform allocating social housing in a random ballot rather than in a needs-based process.⁴³ While Homes Victoria states the platform “does not include the aspects of Snug’s platform that have raised concerns, including the ‘match score’ function”, it’s unclear as yet what data Snug will store following a social housing application.

There is also community concern about Snug’s application process. For instance, one applicant reported Snug asked him whether any applicants identified as “Aboriginal or Torres Straight [sic] Islander”. This is despite questions about racial identification in private tenancy being prohibited under the law.⁴⁴ Snug responded to the concern stating this was in error as an agency selected a question meant for social and affordable housing required by governments. This raises further concerns about the role of private rental platforms in government service delivery.

2Apply does not use a scoring system like Snug’s, but does use a star system on the “completion” status of their application – this appears to include paying for features such as a tenancy check, according to an investigation done by the ABC:

“Ms Carmona could choose not to pay, but she would have to tick a box that says “no thanks, I don’t want to verify my identity” and her “star rating” as an applicant would be capped at four out of five stars.”⁴⁵

InspectRealEstate reached out to CHOICE in the final stages of this report to state it would remove the star rating system to improve “process flows” for tenants. InspectRealEstate also publicly stated this was due to concerns from regulators and the community.⁴⁶

REA Group and Rent.com.au both confirmed they do not provide a score to tenants, but Rent.com.au noted they do pass on whether an applicant completed a tenancy check.

“Opaque algorithms leave renters in the dark about how their data has been used in the analysis of their tenancy applications. This is especially true when it comes to technologies that use automated decision-making to score, rate, or rank applicants.

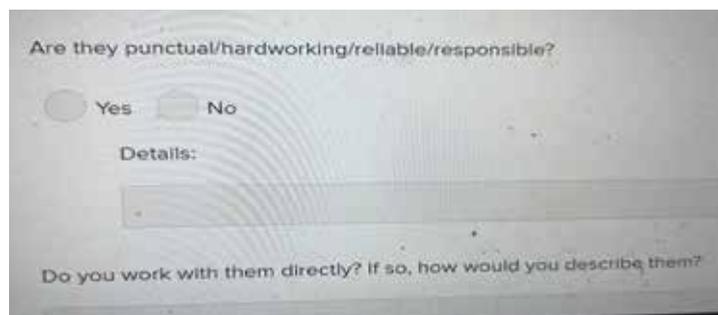
“The use of algorithms in housing markets is far more prevalent in the US and the UK. If we are to learn from these markets, we need to make sure that companies aren’t using algorithms that discriminate or treat renters unfairly.

“Discrimination can happen with or without the use of an algorithm. It is important to emphasise that technology can be part of the solution, and to establish guardrails that stop businesses using rental application technologies in ways that create [harm] or exacerbate existing harms.”

**Interview with Linda Przhedetsky,
Associate Professor at UTS**

Rental technology and the potential for surveillance of tenants

Renters also wrote to CHOICE about their concerns with reference checks being conducted through rental platforms. While reference checks with employers predate RentTech, real estate agents are now able to outsource the collection and handling of this personal data to third-party rental platforms. CHOICE received a photo of a 2Apply reference check that asked an employer whether their employee was “punctual/hardworking/reliable/responsible”.



2Apply reference check sent to employer of prospective tenant.

The information that was asked of employer referees was labelled as “invasive” and “completely unnecessary” by Secretary of Victorian Trades Hall Council Luke Hilakari.⁴⁷ One response we received from an employer noted the difficulty explaining the nature of their workers’ seasonal employment and income. This process also gives employers excessive and inappropriate power over their employees’ living situations.



“I haven’t had to use the apps to apply for rentals. But I have received reference requests for people I know... It is impossible to give a good snapshot of what the person applying is like. I employ seasonal workers and there is no provision in there to explain that. They earn great money, are hard workers and responsible. But the rent apps’ questioning is very black and white, therefore not giving a good chance at securing a rental. I had to ring a real estate agent once to explain one of my employees to them!”

Kira*, Employer

Australian renters should also be concerned by surveillance technologies used overseas and their potential use in Australia. Researchers of “landlord tech” in New York City found that the use of facial recognition biometric systems in residential complexes contributes to gentrification and discrimination against people of colour, and is used to surveil and disrupt organising efforts against landlord tech.⁴⁸ One of those researchers also investigated automated tenant screening processes and, amongst other issues, how they contribute to racial discrimination:

“Largely unregulated TSBs [tenant screening bureaus] deploy search algorithms and web scrapers to grab data available on court websites or purchase data directly from data brokers such as Lexis Nexis, which also profit from their use.”⁴⁹

While the state of automation and surveillance technologies in the United States is far advanced beyond its use in Australia, left unregulated there are few barriers to this type of RentTech being deployed in Australia outside of existing privacy regulations.

RentTech worsens power imbalances for people who rent

In a tight rental market, new technologies are increasing the power disparity between prospective tenants and the real estate agents or landlords they engage with. While this disparity exists regardless of RentTech, new screening and decision-making technologies make it easier for property managers to set difficult conditions for what is an essential service. Additionally, the opaqueness of the algorithms used to develop match scores and shortlists makes it difficult for prospective tenants to understand the rationale behind decisions and to improve their chances of being approved.

The use of RentTech by property managers and owners will likely increase in Australia. However, RentTech is likely to be more prevalent in rental businesses than with private landlords – including real estate agencies, corporate landlords, and build-to-rent complexes. While

still in relative infancy, build-to-rent developments are surging in Australia, and RentTech is most useful for corporations that manage large property portfolios like build-to-rent.⁵⁰ Housing academics have argued this necessitates “automated landlords” to select, monitor, and manage tenants across properties.^{51,52}

Renters on income support or with irregular incomes may also be negatively impacted by rental technologies. The automation of creditworthiness checks, semi-opaque tenancy databases, and income cross-checking can put applicants at a disadvantage. With very little human discretion available, these applicants will likely be looked over in favour of tenants who achieve an algorithmically determined criteria of a ‘good’ tenant.

“Part of the problem is that these platforms are primarily designed to help landlords rather than tenants ... So there’s no one from a renter’s perspective applying oversight or insight into how these apps actually determine your fitness as a renter. They also put up an extra barrier in terms of communication channels. You’re not having direct person-to-person contact. The website or form doesn’t give you any follow-up details, for instance, if you need to talk to a rental agent.

“The problem is that [both rent payment and online application platforms] creates a profile of you that can be stored for future use, and it doesn’t account for human factors. So one week you might be late on your rent because your employer had a problem with their payment system, but that penalises you as a bad tenant. They build a profile of you that may not reflect reality. And that same level of scrutiny isn’t applied to your landlord or agent. The power ratio is lopsided.”

**Interview with Dr Sophia Maalsen,
Australian Research Council DECRA Fellow and
Senior Lecturer at the University of Sydney**

RECOMMENDATIONS

Consumers are increasingly exposed to a range of risks when trying to rent via third party rental platforms. As property and renting continue to be “assetised”, it’s vital for policymakers to reintroduce care into housing infrastructure.⁵³ Australia’s data, privacy, and tenancy laws must change to meet these challenges and guarantee a baseline of consumer protections. Law reform is required to ensure that RentTech players who mediate access to an essential service operate fairly, safely and with greater transparency.

Federal reforms

1. Reform the Privacy Act

Australia’s privacy framework is outdated and failing to protect people from harm. Strong privacy protections for all people, as well as strong obligations on businesses, are needed to hold RentTech companies and real estate agents to account. The Attorney-General’s Department has recently completed its review into the Privacy Act, and the following recommended reforms could address renters’ concerns in the RentTech industry:

- a. Clearer rules on how data is collected and used, ensuring fair and safe outcomes for consumers:** This can be achieved by a new best interests duty that would require private entities to act in the interests of the people whose data they collect, use or disclose. Businesses should be required to only collect and use data for the purpose of providing consumers with a good or service, and remove unneeded data in a timely manner. For renters, this would mean that data collection would be restricted to identification and proof of income, and would only be kept until this is demonstrated. The Privacy Act Review’s recommendation for a “fair and reasonable use” collection of data would be a critical step in this direction.
- b. Align the definition of ‘personal information’ to renter expectations:** The current definition of ‘personal information’ in the Privacy Act refers only to information that explicitly identifies an individual. However, in a digital context, this creates loopholes for inferred data (new data generated through personal information, such as profiles of consumer behaviour) and technical data (e.g. location data, IP addresses, device IDs etc.). This reform is supported by the Privacy Act Review and will provide additional protections for renters who are concerned about the privacy of their inferred and technical data held by third-party rental platforms.
- c. Introduce a risk-based framework for private sector privacy impact assessments (PIA):** Currently, government agencies that undertake activities that risk privacy are required to complete a PIA. Private entities, however, are exempt. At a time when businesses are accruing and handling enormous amounts of consumer data, this is an oversight that has already failed to protect millions of consumers. The Privacy Act Review recommends empowering OAIC to request a PIA from businesses engaging in high-risk activities. Risky activities such as AI-informed creditworthiness and social scoring systems, rewards programs, and online tracking should be included in guidelines for when a PIA is required, while riskier activities should be prohibited altogether.
- d. Expand the Privacy Act to all businesses that hold tenant information:** Small businesses (businesses with an annual turnover less than \$3 million) are not currently subject to the Privacy Act. However, there are exemptions, including for residential tenancy databases. This reflects the enormous amount of personal data held by these databases and the impact it has on the lives of people whose information it holds. In order to protect renters from existing or future small RentTech businesses, the exemption for residential tenancy databases should be expanded to the property management and RentTech sector as a whole. CHOICE supports the Privacy Act Review’s recommendation that the small business exemption in the Act is removed.

2. Inquiry into automated decision-making

The findings in this report demonstrate the potential for renters to be negatively impacted through automated profiling, tenant scoring like Snug's Match Score and 2Apply's star system, and creditworthiness, as well as through automated and manual surveillance. Australia lacks strong laws needed to ensure consumers are protected from exploitative and unfair automated systems. The federal government should urgently commence an inquiry into the use of artificial intelligence and automated decision-making by businesses in determining prices and access to services. This inquiry should consider whether Australia requires legislation such as Canada's proposed *Artificial Intelligence and Data Act*.

3. Economy-wide ban on unfair trading practices

CHOICE is calling for the introduction of a prohibition on unfair practices in the Australian Consumer Law. This overdue reform could protect people who rent from unfair trading practices in the RentTech sector. Unfairness provisions already operate effectively in other jurisdictions, such as the United States, United Kingdom and the European Union. A ban on unfair trading could also limit the use of potential deceptive patterns on third-party rental platforms. (Also known as 'dark patterns', these are covert online design features that exist to manipulate user behaviour.)

State and territory reforms

4. Reform state and territory residential tenancies acts

Each state and territory has an equivalent of a Residential Tenancies Act (RTA)⁵⁴ that governs the rights and obligations of renters, landlords and real estate agents. Although each Residential Tenancies Act differs, each state and territory should adopt the following protections:

- a. The conduct of RentTech should be regulated by residential tenancy acts:** Unlike residential tenancy databases, RentTech that is used to apply, make payment, or request maintenance for a rental property is not captured by any RTA in Australia. Specific regulations will improve access to justice for people who rent. It will allow people to take RentTech platforms to their state or territory's legal and tribunal system for breach of the law.
- b. Restrictions on the collection of personal information:** State and territory governments should amend the RTA to limit the amount of personal information required by third-party rental services, real estate agent, and landlords. This will protect renters from discrimination, and reduce the risk of data breaches and misuse. Rental laws in Victoria have placed restrictions on the nature of information required for rental applications, prohibiting rental providers from requesting bank statements with daily transactions and sensitive information like ethnicity and gender identity without reason.⁵⁵ All states and territories should align their RTA to mirror Victoria's framework and ensure that it applies to all data collection methods, including social media and online tracking.

- c. Mandate fee-free payment options:** There is no requirement to provide renters with a fee-free payment option in Queensland, the Australian Capital Territory, the Northern Territory and Western Australia. However, in states that are required to offer such an option, renters can still be pressured to use third-party rental platforms that come with unavoidable fees, as they are given unreasonable fee-free options such as paying cash in person in real estate offices outside their city. State and territory governments should mandate that there should be at least one fee-free, genuinely accessible option to pay for rent. It should also mandate that renters do not have to pay administrative fees to access rental platforms. This will ensure that renters are not bearing the financial cost of the technology they are pressured into using. This is currently being discussed as part of rental reforms in South Australia.⁵⁶
- d. Close extra fee loopholes:** Tenants are being asked to pay extra fees in their application or tenancy. This includes paying for background checks to improve their application and penalties for failed payments, even when due to technical faults. Although some states and territories mandate that applicants must not be asked to pay to apply for a rental, and some states prohibit penalties for late payments, loopholes exist by way of tenancy background checks and dishonour fees, which are being used to charge extra money from people who rent. State and territory governments should update their residential tenancies acts to ban all fees and ensure renters are only paying their agreed rent.

APPENDIX: TERMINOLOGY AND THE CHANGING RENTAL INDUSTRY

PropTech is a new industry with various segments. A 2022 *Australian Proptech Industry Map* divides PropTech into property management, construction tech, smart cities, investment, and transactions.⁵⁷ Another report on the industry breaks it down into finance and investment, search platforms, brokerage and marketing, property management, construction, smart buildings, and visualisations.⁵⁸

The technologies used by renters span several PropTech segments including property management, transactions and search platforms. They are rarely recognised by the industry as their own category, but the term PropTech is not suitable to describe the tenant-centred experience. For this report, we refer to the technologies used by tenants as ‘RentTech’, or third-party rental platforms.

RentTech can also encompass older technologies that mediated the rental experience before the recent upsurge in RentTech technology and financing. An obvious example are search platforms for rentals (such as REA Group’s [realestate.com.au](https://www.realestate.com.au) and Domain Group’s [domain.com.au](https://www.domain.com.au)), but another significant technology in Australia are tenancy databases. These databases hold records of tenants that have been marked as problems by their landlord or property managers.⁵⁹ Tenancy databases have a longer history in Australia and are regulated by residential tenancy laws, but are increasingly tied in with new RentTech. For instance, Trading References Australia runs a tenancy application service – tApp – as well as a tenancy database, and provides referrals to debt collection services.⁶⁰ TICA, the largest tenancy database, lists InspectRealEstate (owners of 2Apply and TenantApp) as partners on their website.⁶¹

There are also emerging applications of RentTech as a financial service, which have not been explored in this report but warrant further investigation. The clearest example of this is in rental bonds. How bonds operate differs state to state, but for the most part involves a renter lodging a lump sum before their tenancy (usually the equivalent of one month’s rent) as a security against future damage or issues with their property.⁶² These bonds tend to be lodged with a state-run rental bond authority. However, RentTech companies have sought to capitalise on the high costs of these bonds by offering guarantees – almost like insurance – for less than the cost of a rental bond, but without the possibility of a full refund at the end of their tenancy.⁶³

Two attempts at third-party bond guarantees were Traity’s TrustBond and Snug’s BondCover; however, both appear to have failed, with TrustBond’s website no longer accessible and Snug’s BondCover page transformed into a campaign pushing for the legalisation of bond sureties.⁶⁴

Terminology in this sector will continue to evolve as these technology companies seek to expand and innovate.

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