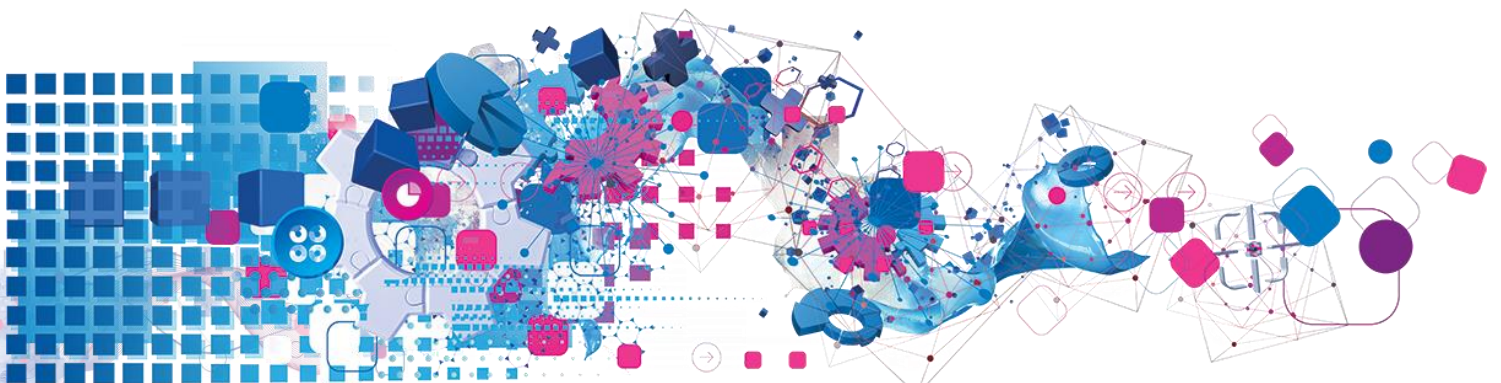




# Experian Australia Response: Review into Open Banking, December 2017

23 March 2018

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## **About Experian**

- Experian Australia Credit Services Pty Ltd is part of Experian®, the world's leading global information services company.
- During life's big moments – from buying a car or home to growing a business by connecting with new customers – we empower our clients to manage their data with confidence. We help individuals to take financial control and access financial services, businesses to make smarter decisions and thrive, lenders to lend more responsibly, and organisations to prevent identity fraud and crime.
- We have more than 16,000 people operating across 37 countries and every day we're investing in new technologies, talented people and innovation to help all our clients maximise every opportunity. We are listed on the London Stock Exchange (EXPN) and are a constituent of the FTSE 100 Index. Learn more at [www.experianplc.com](http://www.experianplc.com) or visit our global content hub at our [global news blog](#) for the latest news and insights from the Group.

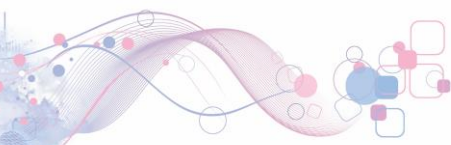
## **Open Banking in Australia**

As a firm believer in the power of customer data, and the benefit that this should bring to the consumers who are the rightful owners of this information, Experian is committed to providing Products and Services to assist individuals and corporations (as custodians of this information) to realise the opportunities that effective exchange of data holds. To this end, Experian is fully supportive of the move to an Open Banking environment, and is already actively supporting this transition in a number of other markets globally, including the UK.

Experian welcomes the intent from the Report to enable Intermediaries to play an active role in facilitating and assisting ADIs and other Financial Service Organisations in achieving the objectives set out in this Report, and believe that the global experience that we have gained in this area over the last few years can assist in a swift and effective transition.

However, considering the challenges that have been faced in recent times with regards to the adoption of CCR within the Australian landscape, Experian would propose that some critical items be considered as part of the transition to the new environment to ensure that Open Banking can be adopted and become effective for consumers in a timely manner. Experian would recommend that:

- The UK model of a Phased Implementation Approach be adopted – this should commence with some standard use case datasets linked primarily to the information residing in a consumer's transactional bank accounts, with broader datasets added into the model in later phases. A smaller more prescribed dataset for an initial phase will enable consumers to realise a significant proportion of the benefit from Open Banking, while also allowing the industry to more easily define and deliver technical solutions to meet this need. It will also enable a solid foundation to be developed that will enable quicker adoption of additional datasets at a later date;
- That some sequencing should be considered to ensure that appropriate lead time is available to develop draft Rules and Standards ahead of the core build and delivery of business solutions. While it is possible to run some of these activities in parallel, it will be more efficient and cost effective in



the long run to ensure that solutions developed deliver maximized long term benefit to Consumers, where the underpinning standards have been developed and understood in advance;

- That Part IIIA of the Privacy act be fully reviewed and updated to reflect the spirit and intent of the recommendations set out in the Report;
- That for consumers to be best equipped to take advantage of a truly Open Banking environment, the programmes put in place to support and educate on this change will be critical. Experian believes that this should be done extensively, early, and should be a shared responsibility (both from a funding and delivery perspective) by Government and Industry.

The following paper provides a more detailed response to the full Report itself and more specifically the items that have been called out above.

Experian can offer, through global experience and local market expertise, a consultative approach with all stakeholders to help operationalise Open Banking in the Australian market. We look forward to supporting industry and the Government with this body of work. For further information on the attached submission, please contact [Poli.Konstantinidis@experian.com](mailto:Poli.Konstantinidis@experian.com)



## Experian Australia Submission: Review into Open Banking 23 March 2018

### Introduction

Experian welcomes the opportunity to be able to share feedback with the Australian Treasury (Treasury) in relation to the Review into Open Banking (the Report).

Many of the G8 countries where Experian operates are launching Open Data initiatives, including Australia, the UK, and the US. Experian supports the adoption of an Open Banking regime in Australia and encourages the Australian banking and financial services industry to become an early adopter of Open Banking. These initiatives will develop over time, and consumers will be at the centre of deciding how their customer account information with any given financial entities can be accessed, transferred, used and shared to their benefit.

We support the Report's view that very significant consumer benefits can flow from the choice and engagement that solutions based on effective sharing of transactional data can bring about. Experian believes Open Data initiatives will enable trusted third parties to gain access to a consumer's banking account(s) – at the consumer's consent, of course – and use it to drive enhanced credit decisions relating to assessing creditworthiness, for assessing ability to pay or over-indebtedness, to establish identity, and to prevent fraud. Such access and use may benefit consumers by enabling the development of innovative and improved financial products and services, increasing competition in financial markets, and empower consumers to take greater control of their financial lives. However, such access and use must ultimately serve and protect consumers.

In this paper Experian has provided commentary in relation to some of the Recommendations in the Report.

### Timelines

Experian supports the concept of Open Banking and the value it will bring to consumers and industry, but we believe caution must be taken in regards to the feasibility of Recommendation 6.1 on the Commencement Date for Open Banking.

Our experience locally in the implementation of Comprehensive Credit Reporting suggests the proposed timelines might be ambitious, but equally we note the UK market, without a starting place for standards, was able to move from concept to deployment inside an 18-month window. Experian supports timelines which will balance the depth of the solution (and creation of associated value-added services) relative to urgency of deployment. In order to meet the ambitious timeline set out by the report, Experian supports the Report's suggestion to use the UK standards as an advanced starting place. We suggest a phased approach to deliver short term and imminent value with a longer-term plan to have a comprehensive data sharing regime across all of the proposed data sets and entities.

We support the Report's Recommendation 6.3 on the commencement date for data, particularly as regards to the proposed grouping of data sets in the various phases, but would again note the date itself could be ambitious. Our experience in the UK shows the substantial benefits the data sharing regime might deliver



have not resulted in widespread tangible consumer benefits to date in the UK as the focus has been on the creation of the appropriate APIs and the ability to simply share data between parties on behalf of a consumer with the primary goal being to meet regulatory obligations and deadlines rather than an industry-wide focus on how to turn this into value for consumers. Some providers are more advanced than others in this regard, but the tight timeframes have not delivered widespread consumer adoption or the creation of enough innovative services to deliver value back to consumers.

### Considerations and Approach for the Creation of Rules

Seventeen of the nineteen credit bureaus that Experian manages across the world operate in either Open Data or Comprehensive Credit Reporting environments. We have seen that open data sharing is often construed as open access to new market entrants, but the reality is far more nuanced – a framework must ensure data sharing controls for security and privacy are in place for it to succeed: what data can be shared; permitted use for that data; appropriate oversight, governance, reporting and monitoring; security protocols, including a robust dispute resolution process (including corrections); and liability limits, particularly around misrepresentation and misuse of information. All of these matters have a legal nuance.

Experian believes Open Banking between institutions using APIs is not just a technical program of work. It requires industry engagement and established operability principles as to permitted use, data security, consent, consumer support, liability and other critical matters. Experian believes when considering how data should be shared both the technology requirements as well as the above matters should be considered. From our experience, for such a data sharing to operate in a manner which is orientated towards the consumer's best interest (both in terms of ease and security of operation) there should also be consideration as to the practical implementation approach and whether all solution providers are able to deliver this. These standards should encompass complaints, remediation and redress for consumers when the sharing process does not go to plan. Any infrastructure or solution provider should have the capability to deliver full customer support in these instances.

### Sequence of Rules and Standards

Experian would also like to comment on the sequencing of the creation of Rules and Standards. The Report proposes the creation of two parallel work streams where the ACCC creates Rules while the Data Standards Body creates Standards. Experian has extensive experience in the creation of complex data standards and data management methodologies both locally and in the 19 other markets where we operate consumer credit bureaus. In our experience the Rules would already be in at least late draft stage before the detailed work on the delivery of supporting data (and other) Standards commences in order to avoid rework or misalignment to the applicable Rules. Experian believes it is exceptionally complex and time consuming to create industry wide Standards which are fit for purpose and designed to add value back to consumers even when the Rules are fully defined and agreed.

We support the notion of some parallel work on these streams noting the possibility of accelerating overall progress but would encourage clear, agreed principles at the Rules stage before commencing detailed work on Standards.



### Value-added customer data and Aggregated data

Experian supports the Report's Recommendations 3.3 and 3.5 in relation to the role of value added customer data and aggregated data in so far as we believe third party intermediaries or other third parties such as CRBs can add significant value to consumers and to ADIs through the creation of analytic or other tools to help share and interpret the data. These entities should not be compelled to transfer this data to other third parties or competitors. Experian agrees with the Report's assessment that such mandated on-sharing of these services and associated data undermines competition, removes incentive to invest in building world class solutions to meet the needs of Open Banking, and ultimately delivers worse outcomes for consumers.

We do not think that the outputs of these capabilities (including but not limited to attributes, scores, or other behavioural trend categorisation) should be included as a data set which must then be forwarded on because this might disincentivise investment in such capability and create unfair advantage to competitors working on the same sort of value added services for consumers.

### Interaction with the Privacy Act

Whilst the Report has considered the interaction between the Australian Privacy Principles and the new Open Banking regime in some detail it has not considered the interaction with Part IIIA of the Privacy Act.

We draw your attention to the following issues:

#### **Credit Reporting Business**

Given the breadth of the definition of "credit reporting business" in section 6P of the Privacy Act there is the real possibility that certain accredited recipients (particularly intermediaries) may unintentionally fall within the definition.

A credit reporting business "is a business or undertaking that involves collecting, holding, using or disclosing personal information about individuals for the purpose of, or for purposes including the purpose of, providing an entity with information about the credit worthiness of an individual."

Having regard to the definition of credit worthiness in the Privacy Act, the information exchanged in the proposed Open Banking regime is likely to be classified as information about the credit worthiness of an individual.

We therefore recommend that a regulation is made under section 6P(4) excluding any business of an accredited recipient who collects, holds, uses or discloses personal information about individuals in accordance with the Open Banking regime as not conducting a credit reporting business.

#### **Exclusion of Credit Reporting Bodies as accredited recipients**

Additionally, so that there is a clear demarcation between the Open Banking regime and the credit reporting regime in Part IIIA of the Privacy Act, we also recommend that credit reporting bodies should not be permitted to be accredited recipients. However, this would not prevent a related body corporate of a credit reporting body, which is itself not a credit reporting body, from being accredited.



## Extension of the Privacy Act to all data recipients

Experian supports the recommendation 4.1 that all accredited data recipients be subject to the Privacy Act. There needs to be a level playing field for all data recipients and the implementation of this recommendation will promote greater confidence in the new regime and give customer's comfort that their personal information will be protected and provide remedies if there is a privacy breach.

## The Role of Intermediaries and other Non-ADIs

Whilst Experian is in general agreement with the principle of reciprocity between accredited participants in the Open Banking system as formulated in recommendation 3.9, it is concerned by the statement that “any non-ADI entity that participates in Open Banking as a recipient of data should also be obliged to provide *equivalent* data in response to a direction from a customer. Equivalent data would consist of: data received from another participant in Open Banking; any customer-provided data (subject to exclusions discussed above); data relating to the lending of money on credit; and data relating to the payment of monies to which they are either a party or that they are facilitating.”

Our interpretation of this obligation is that it would require a participant to not just offer a consumer a direct and immediate service by obtaining their data for a set purpose at that point in time but would also create a wider obligation for data storage and further sharing of the data over time (and the associated complexity that sits with this).

Experian has concerns that the effect of Recommendation 3.9 might be to limit participation by various potential third parties by introducing significant costs to participate. Experian suggests the implementation of standards for defining ‘equivalent data’ shouldn’t inadvertently discourage innovation or the emergence of smaller technology providers by creating additional overhead costs and complexity for the activity associated with being able to further share the data beyond the initial use (for example the security, matching, and data storage obligations required to on-share the information).

Many data sharing regimes have lower ‘tiers’ of reciprocity for entities who do not want to participate in the more complex standards but still have a value proposition to offer to ADIs or consumers. We know in operating a CRB that non-CP participants (typically Access Seekers) often delete the CRB data once their proposition is delivered to their customer to remove any wider data security and storage obligations, for example. By applying the reciprocal obligation to simpler consumer value propositions, it might not be practical or beneficial to industry or consumers because it might be a barrier to entry and prohibit these market entrants from participating altogether.

## Accreditation and Industry Participation in Creation of Standards

Experian supports the Report’s Recommendation 5.8 in regards to the role of intermediaries in the proposed Open Banking regime as well as the recommendations for high standards of accreditation for such entities under Recommendations 2.7 and 2.8. The Australian Credit Reporting Bodies (CRBs) and associated legal entities have extensive (and arguably unique) expertise in the large-scale sharing and distribution of sensitive data in a safe, secure and trusted manner, and in the development of innovative solutions.

We also believe that CRBs in general, and Experian in particular, are well placed to make an important contribution to the outcomes envisaged by the Report’s recommendations and should be fully involved in



the process (both the design of the Open Data API infrastructure and the Open Banking Data Standards activity). Experian suggests the CRBs and associated legal entities, among a wider range of potential intermediaries and non-ADI participants, should be included in the implementation of Recommendation 2.6 (the creation of a Data Standards Body), and be eligible for accreditation under Recommendation 2.7. as a party accredited to receive higher and lower risk data sets taking into account is compliance with the Privacy Act and Part IIIA in particular.

Experian supports the Report's position that "Screenscraping is risky, unstable, and costly" in the context of the Australian market. In a market such as Australia we would encourage phasing these services out as a final solution for Open Banking as they are a partial solution to the broad recommendations from Treasury and their ongoing presence might remove some incentive to move with speed to the more robust and controlled Open Banking environment. We think this outcome best protects consumers while offering them a more complete solution.

### Consumer Education and Dispute Management

When considering the implementation of an Open Banking regime Experian encourages government and industry to invest significantly in appropriate consumer education early in the process and often over time. We support Recommendation 6.4 and would encourage priority, investment, and focus on this initiative throughout the program to deliver Open Banking. This should constitute more than the proposed coordination role and extend to funding.

The implementation of Comprehensive Credit Reporting has highlighted some of the challenges in helping consumers understand the significant benefits of such data sharing regimes. Our experience in the UK in the adoption of Open Banking shows the focus on consumer education commenced in October 2017, just months before the go live date. This has created problems for adoption and indeed created a portion of the population who are fearful and even opposed to the new data sharing services available to them. The success of Open Banking is ultimately dependent on consumer adoption of the various services to deliver value back to them, and Experian believes education is imperative to avoid an outcome where consumers are reluctant to participate or fearful of what more data sharing might mean for them.

Experian also notes if the system is deployed without due consideration to consumer issue management an Open Banking regime will not be set up for success. We believe this extends beyond the provisions for regulatory escalation or other more formal dispute regimes such as EDR by consumers as proposed in Recommendation 2.10.

From our experience, for such a data sharing platform to operate in a manner which is orientated towards the consumer's best interest there should also be consideration as to the practical implementation approach and whether all solution providers are able to deliver a robust consumer support and complaint management protocol. An example may be the provision of complaint, remediation and redress for consumers/SMEs when the sharing process does not go to plan. We also recommend any infrastructure or solution provider should have the capability to deliver full customer support, including effective contact routes, trained staff and incident management processes, should data errors or matching queries occur.





## Future Vision and Conclusion

As a firm believer in the power of customer data, and the benefit that this should bring to the consumers who are the rightful owners of this information, Experian is committed to providing Products and Services to assist individuals and corporations (as custodians of this information) to realise the opportunities that effective exchange of data holds. To this end Experian is fully supportive of the move to an Open Banking environment, and is already actively supporting this transition in a number of other markets globally, including the UK.

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