



SUBMISSION PAPER

OPEN FINANCIAL DATA

Response to Open Banking Implementation Review

March 2018

This Submission Paper was prepared by FinTech Australia working with and on behalf of its Members; over 220 FinTech Startups, VCs, Accelerators and Incubators across Australia.



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Introduction and Acknowledgements

FinTech Australia and its members welcome the opportunity to provide feedback to Federal Treasury in relation to the recent Open Banking Implementation Review report.

We would also like to express our heartfelt congratulations to Scott Farrell and the Review Secretariat, who have undertaken a truly balanced, consultative process and have delivered a considered, well-researched and comprehensive set of recommendations in their report.

In this submission we summarise feedback on behalf of FinTech Australia's Open Data working group, as well as others outside of FinTech Australia's membership who hold technical or related expertise that we felt would hold value for our further recommendations and feedback.

In particular, we would like to acknowledge and thank our Policy Partners for their guidance and support for our Working Group in this area, including:

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- K&L Gates
- The Fold Legal



1: Broader Context for Review

The lost opportunity of Super, Managed Funds and Insurance

FinTech Australia welcomes the broad support from the Government for the findings of the Productivity Commission's Inquiry into Data Availability and Use, particularly in relation to the creation of the Consumer Data Right (CDR). We strongly believe this is a transformational policy directive, and if executed with strong industry engagement and in a timely fashion, will cement Australia's position as one of the world's leading markets for Data-driven Industries.

We urge both sides of Government to support the steps being taken to implement the new CDR and Data regime, and the immediate designation of the Financial Services sector as an area that this new CDR will apply to as proposed.

It is important to highlight that FinTech Australia strongly encourages both sides of Government to agree **to designate the entire Financial Services sector as quickly as possible** - that is, Superannuation (particularly Retail Managed Funds, share trading and registry data for securities listed on a stock exchange) and Insurance, *in addition to* Banking.

The broader context of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services industry, as well as the recent Productivity Commission Draft Report into Competition in Financial Services, has highlighted a variety of problems including a highly concentrated banking and insurance market, poor consumer outcomes driven by misaligned incentives from cross-selling and vertical product integration, and generally high consumer apathy toward their own long-term financial health. There is clearly an urgent need for reform to ensure that Consumer outcomes are improved in these areas.

Designation of these additional areas of Financial Services in addition to Banking to increase the availability and utilisation of data within a safe, secure framework will immediately bring about improved Consumer and economic outcomes, including through:

- Increasing the possibility for better notifications to encourage consumers to review and potentially switch their financial product or product provider with greater ease;
- Allowing innovative FinTech companies to create a more holistic view of a Consumer's financial position, working with them directly or via their Accountants and Financial Advisors to improve their financial literacy and long-term financial well-being;
- Enable entire segments across the lending vertical (home loans, personal loans, car loans, short term loans and revolving facilities such as credit cards or store cards) to truly understand an individual's personal financial circumstance, and drive adoption of, and adherence to expected new measures around responsible lending; and



- Allowing innovative RegTech companies to better monitor, identify and report on poor behaviour, misconduct or breaches, which in turn drives better conduct, better consumer-centric practices and ultimately re-establishes trust in the sector.

We strongly urge both sides of Government to consider broadening the initial designation of the Consumer Data Right to the broader Financial Services sector, or at the very least to ensure its designation within 1 year of Banking. It is our view that the long-term benefits to both Consumers and the overall economy - particularly in relation to Superannuation and reduced reliance on Government-funded pensions - will be far greater than from designating Telecommunications and Utilities as the next priority.

We urge the Government to release details of their timeline for the designation of these sectors under the Consumer Data Right.

Setting the grounds for Write as well as Read

FinTech Australia also strongly believes that the new proposed CDR and Open Banking regime should clearly articulate a timeframe for consideration of Application Programming Interfaces (APIs) that allow 3rd parties to write data, as well as to read it.

The ability to write data to a Consumer's profile is **critical** to ensuring the consumer's decisions are actioned as quickly and easily as they are able to make them. Enabling a Consumer to initiate a comparison, or to centralise the information they need in order to make a decision is only one part of the process of actually helping them to undertake a switch. This fact is very clearly understood and shown to be a priority for other leading jurisdictions such as the United Kingdom and the European Union, where Payments Services Directive 2 (PSD2) will soon be in operation and various players in those markets (some of whom also operate here in Australia) are already moving to embrace and adopt the opportunities that will provide them to improve the Consumer's overall experience. In time, Consumers will come to expect this as standard. Yet it is clear that without this being mandated, Australia's larger financial institutions have little time nor incentive to prioritise write access which will mean they will lag other players operating in those markets. Moreover they will also be left behind by, and be less able to partner with the fast-moving digital challenger banks and new breed of uber-apps that are swiftly taking majority market share in Financial Services across the Asia-Pacific region.

We cannot count on the NPP to be Australia's PSD2

It has been suggested that the New Payments Platform (NPP) will ultimately provide a pathway toward an equivalent solution to PSD2 in Australia, providing much richer access to Data and instant execution of payments, making write access unnecessary to include in Open Banking scope. However, the NPP is not likely to be the panacea for Open Data across payments. Early indications from members of Australia's Payments Working Group show the NPP's current



pricing and access model does not yet appear to be competitive nor accessible for smaller players. Furthermore, the infrastructure is designed to focus on higher value, real-time transactions. At current pricing, the NPP is uneconomic for use cases that involve high-frequency, small value payments such as round-ups.

Furthermore, write access is not only about payment-related use cases. Write access also enables the actual switch to be made from one product or another, or even to change a product setting. For example, it could enable a third party Consumer-facing personal finance app to instruct a Bank to roll a percentage of a Consumer's term deposit over at its maturity into a different term deposit product at the same Bank.

It is FinTech Australia's view that our Open Banking regime would be far more impactful and deliver much greater benefits if write-enabled APIs were also included in its scope. We appreciate that starting with a simple scope as part of a staged roll-out is generally the best approach to significant and transformational change; as such we strongly recommend that write-enabled APIs are included as part of the formal 1-year review into implementation of the Consumer Data Right by the ACCC, with a view to including this in CDR scope within a year from then.



2: Open Banking Regulatory Framework

The Regulators

We agree with the review's recommendation that the ACCC is the appropriate Regulator to lead the creation of the rules and to regulate the Consumer Data Right, including rules for Open Banking (or as we recommend, Financial Services) as the first designated sector under the CDR. In particular, we support this due to the fact that ultimately the CDR is much broader in its application than just the Financial sector. We also agree that this should be done in close consultation with the Financial Regulators, and that the OIAC is a suitable body to ensure that the new regime also works well as part of Australia's current Privacy regime.

We note that the ACCC in recent years has not typically had a high level of engagement with Financial Services, deferring in most cases to the set of Financial Regulators ASIC, RBA and APRA in particular when it comes to competition-related issues in this sector. We welcome the creation of a Financial Services-specific team within ACCC since the last Federal Budget, and that Financial Services has been elevated to an area of strategic priority this year. However the amount of specific knowledge in relation to competition issues in Financial Services, particularly in how they relate to use and/or limiting access to Data in order to limit competition is a relatively new area that may require the ACCC to grow and build capability in quickly to ensure they are prepared to meet the deadlines set forth in the review.

As such, we strongly encourage the ACCC to commence a robust and regular dialogue with key stakeholders in the sector, particularly those in the FinTech community and consumer groups, to ensure they are able to gain a strong appreciation of the subtler nuances as they prepare for the coming regime. Likewise, we also urge the OIAC to engage more closely with stakeholders as part of this process. We agree with the findings and recommendations of the review in relation to their proposed role and involvement in relation to the establishment of rules and standards for Open Banking and CDR.

A tight and ongoing relationship will be required between the OAIC, ASIC, RBA and Data Standards Body in particular throughout the establishment of rules and standards for the CDR and Open Banking - particularly since the Federal Government's recent announcement to add a Competition Mandate to ASIC's remit. Certain projects already underway with ASIC and the RBA will also have a high degree of overlap with the new CDR as it progresses through Open Banking and into other industries, such as the work around new e-Invoicing standards, and the data standards surrounding the NPP. Regular engagement with, and participation from the Federal Government's Cyber Security taskforce should also be a priority for both the ACCC and the DSB in particular.

In establishing the Rules for the application of the CDR to Financial Services, we agree that the rules must not be too prescriptive, but rather principles-based. A formal and regular review



process should also be established for the first few (e.g. 5) years to ensure the rules might be improved as needed in order to capture any findings or nuances from the standards work that has been done by the DSB (and over time, the roll-out into other industries).

We also strongly agree that the rules should also not be used to establish white-lists of permitted or restricted use cases, and should be as broad as possible to ensure they do not restrict any future, unforeseen use cases. That said, use cases are an extremely pragmatic and effective means to approach the DSB's work to determine standards as it enables focused consultation and engagement, which will ultimately aid in timely delivery.

Standards-setting and the Data Standards Body (DSB)

Experience from the United Kingdom highlights the importance of ensuring our Competition regulator is closely engaged with the DSB to ensure it is working toward the required outcomes, and to schedule. It is FinTech Australia's strong recommendation that the ACCC co-chair the DSB alongside an independent chairperson to ensure Industry is moving to deliver required standard-setting outcomes on time.

We also agree that using other jurisdictions' existing standards as a starting point for the development of Australia's Open Banking standards e.g. UK and EU PSD2 is a good way of accelerating the roll-out process, even if only to provide a framework or list of use cases to create an initial project scope.

However, it is highly important that the DSB establish and agree a change management and governance framework as an early priority. It is inevitable that Australia's Open Banking Data standards will diverge from other jurisdictions due to the different regulatory frameworks under which the sector operates, and the time that has already evolved since the creation of other market's standards. For example, the UK Implementation Entity is already undertaking a round of updates and changes to previously agreed standards, barely a month after their initial launch.

Roll-out approach and cadence

In considering the roll-out of Standards to support Open Banking, we recommend that a clear distinction be made between different Phases - Instantiation vs Implementation. We also believe it is important to establish different group roles through the process between those who are Advisors (i.e. consulted during the creation of the standards) as opposed to the Doers (those who do the work to run consultations, and ultimately agree what the standards should be).

We also recommend that the standard-setting should be undertaken in iterations or phases based on use cases. For example, there are several use cases that should be considered a priority because they are timely (such as standards relating to the NPP, which have recently



started to be developed by the NPP in collaboration with direct participants, and are not mandatory) or are of particular importance given broad applicability (such as Know-Your-Customer (KYC) and KYC reliance). Other common consumer uses such as Credit Card comparisons or “holistic view” personal financial planning tools, or areas that have been highlighted by the Productivity Commission as areas that are most in need of improved Competition outcomes such as General Insurance comparison tools could also be included in an initial phase.

It is important to note that time is needed by all participants in an Open Banking regime to adopt and work with newly established or revised standards. However, this should not be left open ended. Implementation, change management and governance processes could also potentially consider grading the relative size or complexity of changes needed, which would therefore determine how long regime participants should be given before they must have the standard implemented or updated as part of their suite of APIs.

Activities and engagement through the Instantiation phase

Much like the organic development of the UK’s Open Banking regime, there should be a short (3-6 month) instantiation phase to determine parameters, establish governance structures and appoint the required resources to establish the regime through the implementation phase. For example, the instantiation phase should look to:

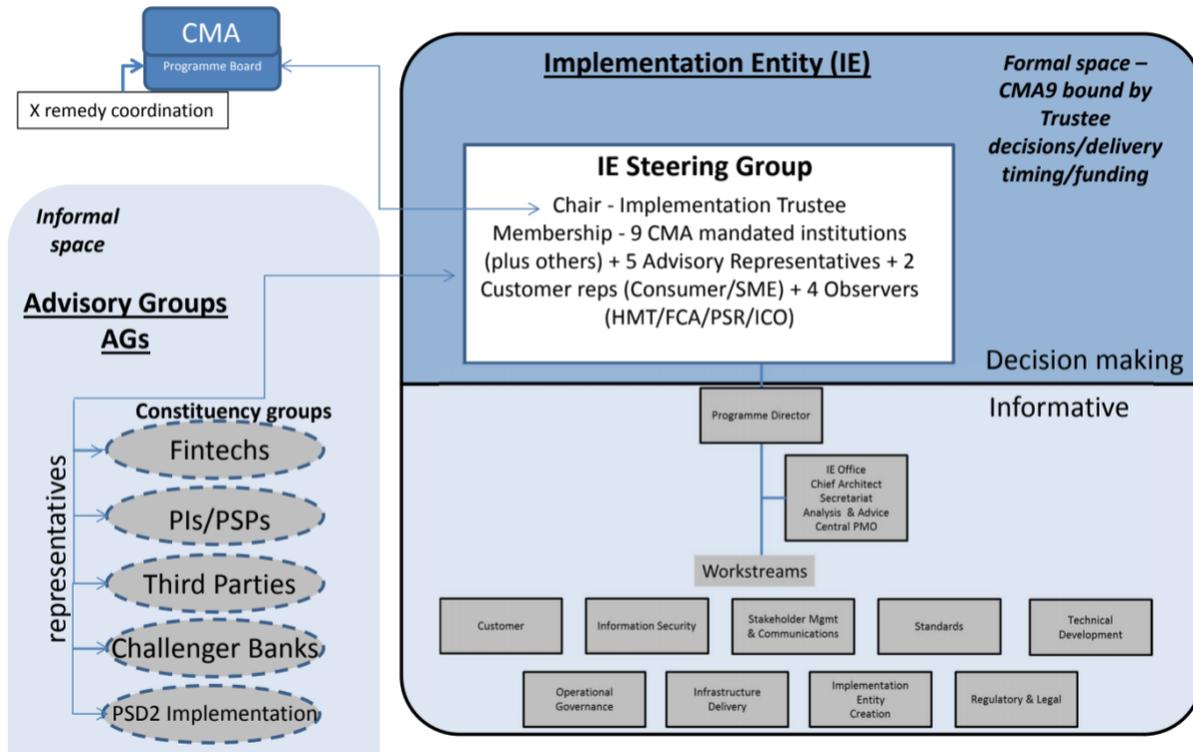
- Identify and consult with a broader group of Stakeholders to help form the broad Requirements / Use cases
- Select and Appoint the Implementation DSB Co-chairs (from the ACCC and also the independent chair) and a smaller Steering Committee (see Implementation section)
- Begin hiring the Independent team to do the Implementation work
- Select and form smaller Implementation DSB Working Groups or committees, including appointment of Leads for these committees.

The instantiation phase does not need to be completed in order for the implementation phase to begin; once the broad structure has been identified and agreed, implementation can begin once the first few use cases have been identified as high priority, and working groups and leads are appointed to work on standards in this area.

In many respects, the Instantiation phase would be slightly similar to the early stages of the UK Open Banking regime, save with the addition of formal roles for constituency groups other than just the banks (see figure next page).



Figure 1: UK Open Banking Implementation Entity Structure, in its early stages. This eventually changed to a more formal and focused structure to drive forward Implementation, with more formal participation in the workstreams from the broader Constituency groups.



The recently signed UK-Australia FinTech Bridge would also provide a valuable opportunity to draw further learnings and discuss the development of Open Banking standards between the two jurisdictions as they evolve. FinTech Australia will be nominating the Chair and working with Innovate Finance to establish the Agenda for the regular industry-to-industry dialogue; it is highly likely that Open Banking will feature on the agenda for coming roundtables.

Activities, structure and engagement through the Implementation Phase

The implementation phase is where the majority of the standard setting processes would be undertaken, much as the current UK Implementation Entity is doing now. In particular, the broad stakeholder group would have evolved into the smaller Working Group Advisory committees, who are consulted as required by the Implementation DSB team.

The below table uses a RACI framework to provide an example and analysis of how the DSB could be structured, including the function of different groups and interactions between them:



	Group(s)	Function
Responsible	Standard Setters (Independent team of approx 6-8 Analysts, Project Managers)	Doing the actual work of creating standards i.e. creating project Plan and timelines, writing use cases, organising stakeholder Working Group meetings around each phase/use case, synthesising inputs, reporting on progress, drafting/finalising actual standards and authoring supporting documentation.
Accountable	DSG Steer-Co (no more than 8-10 stakeholder representatives across industry, regulator and consumer)	Small steer-co that provides input and direction to the Standard Setters with respect to the Project Plan, Use cases and broader stakeholder engagement processes. Helps to also collate and bring other stakeholder concerns to the table, and to escalate issues from the Standard Setters to ensure blockers are removed. There should be equal number of representatives each for Banks, Other smaller FI (FinTechs), Regulator and Consumer e.g. 2 each to ensure even representation in the voting structure.
Consulted	Advisors/Input Providers to Use Case-based Working Groups Industry Groups, Financial Regulators, Government, Consumer Groups, Legal and IT, Cyber security firms etc as required	Various different relevant financial industry groups, regulators, government agencies, consumer groups and relevant service providers whose constituents or employees provide inputs into the standards required for use cases as directed by the Standard Setters carrying out the Project Plan. Within each of the different Use-case based working groups, there should also be an even number of representatives within the decision making architecture across different types of contributors / participants to ensure even representation (e.g. could appoint co-leads for the Working Groups, with 1 representative from each constituency holding a decision-making vote.)
Informed	Media/Consumers, Non-financial Regulators, International Regulators	Various different other players who have an interest in the project, ensuring they are kept abreast of project progress and outcomes

The Standards-setting team should be as independent as possible (i.e. not resources seconded from regime participants) and should be paid by Government to run project delivery and execution. For example, the work could be run by groups with specific expertise in standard setting and helping diverse stakeholder groups reach an agreed consensus, such as Standards Australia or other consulting groups operating in the Financial Services and IT space. This would ensure even stakeholder engagement, particularly for smaller constituent groups such as Consumer groups and FinTechs who don't have much time to contribute.

Ongoing monitoring of other jurisdictions' standards

Open Data initiatives are taking place at pace throughout the world, particularly in the UK and



EU where the roll-out of GDPR is well underway. Of note, several key features of GDPR, such as the right to be forgotten, may have implications for the design of the regime in Australia; much is evolving in the area, particularly through the recent media attention regarding Facebook and Cambridge Analytica's alleged misuse of Consumer Data.

It is thus important that the DSB establish regular international engagements with equivalent groups to understand how these projects are evolving, and whether aspects of these should be adopted, modified or disregarded as part of Australia's Open Banking regime. In particular, modifications and updates may be needed to the Privacy Act to ensure robust levels of consumer confidence for the new regime.

Accreditation and Compliance

We support the review's recommendation that there be a tiered, risk-based accreditation structure regime, with accredited entities published in a searchable and queryable digital database. However, we are wary of the need to have an accreditation regime that is based on two different dimensions (Type of data as well as risk of organisation or use-case). Having both would create additional complexity that would make both application and governance harder, and more time-consuming. FinTech Australia believes that a Risk-based (organisation/use case) only would be preferred, as the question concerning type of data is already included and evaluated as part of the determination of Risk level.

There is substantial risk that the accreditation regime may act as a means by banks to frustrate adoption, or as a deterrent to participation by smaller companies. We believe the objectives of open banking are best served with as many providers as possible, of all sizes, contributing data. As such, it is important that the accreditation and compliance processes associated with the Open Banking regime and CDR are able to balance both the need to properly assess data and security risks and safeguard the consumer, whilst allowing innovative new entrants to participate and thrive.

To minimise this risk and also minimise double-handling in regulation (which creates additional compliance burdens for both the participants and the regulators), the accreditation regime should provide automatic or streamlined access to certain tiers of accreditation for companies already holding licences such as an AFSL or ACL. There are already extensive and regularly audited risk, information security, and data use/disclosure obligations in place for such licensed entities that are undertaken by ASIC, with the ultimate goal of the regulator being much the same as for Open Banking.

FinTech Australia strongly recommends that the ACCC work in collaboration with the DSB to build, test and review the accreditation processes before launch. As part of this process, consideration should also be given to how the Accreditation regime may be rolled-out (in



batches so as to ensure there are no inadvertent competitive advantages created by allowing a small number of parties to be accredited first - similar to ASIC's roll-out of Equity Crowdfunding).

Consideration should also be given to ensuring there is a mandatory regular review of the regulations surrounding accreditation, perhaps annually for the next 5 years as the regime rolls out, to ensure that the regulations are fit for purpose and can evolve as learnings arise. In particular, attention should be given to the number of entities accredited, the number of consumers who have accessed data via an accredited entity, and the number of consumers potentially impacted by incidents or data breaches.

In summary - we strongly believe that the Accreditation regime should:

- Have a clearly defined process and timeframe appropriate for all parties (in particular, this may require additional resourcing and advance preparations by the Regulators to ensure turnaround times for accreditation are fast, particularly at lower risk tiers);
- Be independently governed by the ACCC;
- Not be over-onerous from a cost perspective, and seek to take advantage of other accreditation regimes that exist where possible; and
- Be considerate of how it may be utilised in other CDR related verticals (but not at the expense of momentum - especially if a regular process to review and potentially revise the regulations is also simultaneously created).

We also strongly support the ACCC's creation of an Address Book as recommended by the review; furthermore we urge the ACCC to consider its creation a priority so as to ensure that it is firmly operational and clearly accessible at Open Banking launch. This will ensure efficient operation, and ultimately help drive participant and consumer use and trust in the new regime.



3: The Scope of Open Banking

Scope of data, and how data should be shared

As outlined in discussion above regarding the regulatory framework and the operations of the DSB, it is important that the rules are not prescriptive over the scope of data, and that the DSB quickly establish clear processes to request data be added to the scope of the implementation project to ensure Competition benefits are met.

For example, the Implementation phase could be broken into phases, where standards are developed around use cases in Sprints in line with Agile best practice, so tasks become digestible and people know what to focus on when. Processes to add new Data sets to the scope and prioritise between data sets could therefore also draw closely from Agile product development practices.

We note that Chapter 3 of the review report commences with a list of types of data that exist: Customer-provided data, Transaction data, Value-added customer data, Aggregated data sets. A key omission from this list is Contract and product data - important information about the contractual relationship between the customer and the financial institution, and information about the product that has been issued.

Examples of this type of data previously included in FinTech Australia's submissions include (but are not limited to):

- interest rate
- product type
- expiry date of loans, term deposits and fixed rate periods
- Interest only vs Principal and interest
- Fixed versus variable
- Which accounts are offset against which other accounts

Regime participation: Supporting reciprocity but not daisy-chaining of data

FinTech Australia agrees with the review's recommendation that the concept of reciprocity should be a fundamental principle of Open Banking. However, it is important to clarify that the notion of reciprocity should apply to regime participation and supply of original raw data. We do not believe that obligations to supply data should extend to data that was originally provided by another third party (e.g. bank transaction data provided to a lender by a third party).

Put another way, we believe the concept of reciprocity is best interpreted as meaning that if Party A wishes to access data originally produced by Party B, then Party B should also have access to data *originally produced* by Party A. It should *not* include allowing Party C to request Party A's original data from Party B.



The notion of allowing Party C to request data from Party B that was previously requested and obtained from Party A is known as “daisy chaining” of data. There is a real risk that daisy chaining of data can lead to data being inadvertently (or deliberately) altered, abridged, or damaged. At the very least, it is highly likely that data may have been retrieved as a once-off, and is out of date and therefore not an accurate reflection of the Customer’s current status.

Daisy chaining of data creates additional risk and potential liability for participants who may be asked to provide, and potentially stand behind, data they did not have any role in producing. This increased risk may result in fewer regime participants and limited success of the regime more broadly. As such, we recommend the rules be clear that participants may direct third parties back to the source data provider, so that Data can be captured from its original source to ensure accuracy and integrity.

As described above, we agree that reciprocal obligations should extend to data produced by each participating entity. However as the key policy objective behind open banking is to increase competition, the regime should prioritise access to data rather than contribution of data for smaller industry participants. As such, we also agree with the graduated timeframes for smaller institutions proposed in the review.

Where to draw the line between raw, value-add and aggregated data

We agree with the review’s recommendation that raw transaction data should be accessible by accredited open banking participants free of charge. We expand on this further in an effort to assist policy makers in their consideration of where the line might be drawn between raw data which should be free, versus value-added and aggregated data sets that should not be free.

Raw data is a factual record of a single event that has taken place (such as a transaction) within a product, or contractual arrangements between a customer and a single product provider, or data about the customer themselves that may be held by that product provider. For example, the amount of a transaction, date, time, payer, and payee are raw data. The interest rate and maturity date of a loan are raw data. The name, address, date of birth of a customer are also raw data.

It is important to highlight that the above is in relation to a single product provider, as opposed to one or more product providers. Raw data that is brought together and held by an entity from multiple product providers should no longer be considered raw, but rather should be considered as an aggregated data set and therefore out of scope for the regime (though an entity may opt to still provide it to others for a fee). This is because work has been done by the entity to categorise data into standardised datasets across multiple product providers. For example, data may be aggregated across time, events, product providers, and/or customers.



Furthermore, data that is analysed, categorised, manipulated or interpreted further into derived data sets is not raw data, and should be considered value-added data and therefore out of scope. This includes data algorithms, and entities may also opt to provide these and other value-added data to others under the regime for a fee.

Speed and availability of data

FinTech Australia supports the recommendation in the review that the customer should be able to direct how long a third party may have access to their data for, whether one-off, hourly, monthly or otherwise.

However, we also recommend that explicit clarification be made in relation to the timeframe within which the customer's data must be made available to the third party after the customer has requested it be shared. Without this being clarified in the legislation, there is nothing to stop participating entities delaying the sharing of data by an hour, a day, or otherwise in which case the customer's data may be out of date, and the third party (and customer) utilising the data put at a substantial disadvantage.

A standard service level agreement to determine the maximum turn-around time should be agreed as part of the DSB's work, and enforced by the ACCC. Based on current consumer expectations from other common applications, in which authentication is performed and data transferred as close to real-time as possible, FinTech Australia recommends that the maximum time delay for data delivery should not exceed a few seconds for the majority of circumstances, or Customers will lose patience which would act as a substantial pain-point and deterrent for them utilising apps and tools enabled from the regime. For downloads of larger blocks of data (e.g. for data extending back long time-periods) it may be acceptable that this may take longer.



4: Safeguards to inspire confidence

Privacy and Liability

FinTech Australia agrees with the review's recommendations to ensure the OIAC works closely through the implementation process to ensure that the new regime is designed with Privacy concerns closely addressed. Where necessary, this may require amendments to the Australian Privacy Principles to ensure the new regime can deliver its competition-enabling benefits, whilst still providing robust protections and safeguards for consumer privacy. Key to this is an easy to use and to understand consumer consent framework, that clearly defines what Consumer data is being shared, to whom it is being shared, for how long, and for what purpose.

Of utmost importance in being able to do so is ensuring that any questions relating to privacy obligations that intersect or overlap with the new regime are clearly resolved, so as to eliminate any uncertainty for entities that wish to operate under the new regime. Likewise, it is also critical to ensure that liability frameworks are clear for regime participants. Anecdotal evidence from would-be participants in the UK regime suggests that uncertainty about where liability may lie for breaches or incidents relating to data holders and receivers is a major deterrent for accreditation and regime participation in its early stages. The table of liability case studies already highlights a number of areas where there may be ambiguities in where liability lies for the new regime under the existing APPs and other existing Banking-related regulations.

FinTech Australia applauds the review report's table of liability case study examples as precisely the type of clear and comprehensive guidance that industry would very much welcome and support the creation of as an additional guideline from regulators alongside the rules. In addition, we are strongly supportive of all the suggested outcomes in each use case.

Security standards

FinTech Australia is pleased to note the review report's acknowledgement regarding the need for commonly used and jointly determined security standards, and is supportive of the recommendation for the DSB to determine the best standards to adopt in line with global best practice. It is equally important however that the breadth and depth of a standard that an entity is required to adopt is commensurate with the level of risk (and therefore is likely tied to the accreditation tier they are utilising). For example, requiring smaller players who are not accessing high-risk or sensitive data to comply with the entire ISO27002 standard would be over-onerous and unreasonable, though requiring them to comply with certain aspects may be acceptable and relevant.



5: The Data Transfer Mechanism

Specific support for Screenless Data Capture practices

The practice of Screenless Data Capture or “Screen Scraping” currently provides many FinTech companies access to Data that is not necessarily included in the example list of “in scope” items. We note that the review did not specifically seek to ban nor endorse screen scraping practices, preferring instead to allow the status quo to continue and for screen scraping to eventually be made redundant by new technologies such as APIs.

However, this view does not take into consideration that the current status quo is precarious at best, given practices already being undertaken by Banks to restrict or control access to data by certain FinTech companies via screen scraping under the banner of security and compliance. Once APIs are also completed to scope for certain use cases, Banks may also feel that they have a right to block screen scraping, regardless of whether some of the data currently available to FinTechs via screen scraping is not yet available through their API. In this instance, the potential adverse consequences for the Consumer could be enormous, particularly if they are already used to receiving and making decisions based on data previously available to the FinTech product or service via screen scraping.

Furthermore, API infrastructure can at times go offline, in which case a back-up solution is often needed. Many banks in fact utilise screen scraping techniques in their own operations as part of their own failsafes when internal APIs go down. Taking a step further, some banks in the USA are proactively collaborating with Data Aggregators, creating screen scraping-specific portals and log-in credentials so the Customer and FinTech can still get data during an API outage.

In summary, we strongly recommend the ACCC work with industry to understand screen scraping practices more deeply, so that the implications of blocking screen scraping before, or during Implementation phase are well understood. In particular, it is important to ensure that access to, and breadth of data available does not become more limited than it is now as APIs are deployed, or Consumers will be impacted. The presence of the ACCC as co-chair of the DSB should also help to mitigate this potential risk through implementation.

Use of other jurisdictions’ technical standards

FinTech Australia is supportive of the review’s recommendation to leverage standards and principles from other jurisdictions such as the UK’s Open Banking regime as a starting point for Australia’s Open Banking regime. Using other jurisdictions’ standards (including for open banking) has two potential benefits:

- Reducing the cost of implementation of the standards themselves. By following in the footsteps of other jurisdictions, we avoid the cost and time required to consider all issues with the implementation of an initial standard.



- Increasing interoperability. Adopting foreign jurisdiction standards increase the likelihood that transactions in one country's banking system are compliant with another's. It also means that APIs are consistent, such developers can translate Open Banking platforms across borders quickly and easily.

The economic implications of shared APIs not just between banks within a country, but across borders, can be substantial. An app that is developed for one country (such as the UK) could much more easily be ported to Australia or vice versa, resulting in innovation occurring much more quickly and cheaply than if the APIs were divergent.

As recommended previously, it is important to ensure any standards are evolved with robust change management and governance processes to ensure any issues surrounding localisation can quickly be addressed through the establishment process.



6: Implementation and Beyond

Supporting a Consumer Education campaign

FinTech Australia and its members strongly support the review's recommendation that a strong consumer campaign be run in conjunction with implementation to ensure strong take-up of the regime by both would-be accredited entities and consumers. Some of the reasons that initiatives such as "Tick and flick" to help consumer switching have typically failed is due to limited awareness of the ultimate benefits to the consumer and potential other users of the service.

The cost of the campaign should be supported in part by Government, but also by Industry participants in the regime, funded by the fees associated with accreditation (i.e. paid by the main beneficiaries).

Continuous Review

It is also extremely important to ensure that the rules and standards initially established through the roll-out of Open Banking are continuously reviewed and updated over time to ensure they are continually in line with Global best practice, and are also inter-operable with standards being developed for other designated industry sectors.

As previously mentioned, an annual formal review process for at least the first 5 years should be undertaken by the ACCC and DSB around key areas such as the Rules design, Accreditation process, and minimum security standards.



Conclusion

FinTech Australia expresses its heartfelt congratulations to Mr Farrell and the Review team for the production of an excellent, important, and well considered document in relation to the implementation of an Open banking regime in Australia, as the first step toward the implementation of the broader Consumer Data Right.

We strongly believe that, if executed as proposed, Australia will be well upon its way toward the creation of a strong Data economy and a much more robust and competitive FinTech and Financial Services sector.

We strongly recommend that Policy makers on all sides of Government adopt the broad direction of the recommendations in this report, and move quickly to establish the foundational framework of Australia's Data-driven future.