



Experian Response to the CMA Consultation on the Future Oversight of Remedies for Open Banking

Executive summary

Experian welcomes the opportunity to revert with thoughts around the proposals and thinking to date surrounding a future oversight of the remedies for open banking in the UK. As **one of the UK's largest Account Information Service Providers ("AISP") in the UK** we have welcomed the changes which the CMA remedies have brought about in relation to data sharing in the banking sector.

We would like to raise a concern about the timeframe of this consultation, which appears to be incredibly short when considering the impact that these measures may have for not only the businesses involved in this sector but also the wider consumer impact. We feel a 3-week timeframe for input is not reflective of the complexity of the issue set, the need for reflection and consultation internally, and our ability to provide detailed input is not possible within the timeframe work. We would therefore encourage the CMA to extend the timeframe for input.

We have made consideration of the points that the CMA has raised in the consultation paper and we remain concerned by the proposed governance structure for lack of accountability, scrutiny, and potential for conflict of interest. We fully understand the intent and motivation for UK Finance to put forward their proposal for the future structure, however we feel this is not entirely fitting the efficacy of the remedies where some issues remain over implementation.

We remain convinced that there is a strong need for an independent and free from constraint or conflict body such as the OBIE to have oversight and focus on ensuring the open banking data sharing framework operates as it should. There remain a number of implementation concerns around the data sharing framework under the Payment Services Directive 2, including the engagement of consumers, the data uses and the process around the consent requirements of the legal framework. All these issues remain in progress and whilst working through ensuring consumers attain the most value from the CMA remedies, alongside the motivations around increasing competition, switching and choice, we need a stable and experienced oversight body.

Proposed solution

We welcome the decision by the lenders via UK Finance to seek to find a workable solution to the issue of the future monitoring and oversight of the CMA remedies. We are of the opinion that the input and involvement of the market in taking practical approaches to the changes which need to occur by those who understand the business and industry best are always a positive move. Reducing regulatory burden, preventing against stifling business growth and being mindful of innovation, are important factors which we feel were the intent of the CMA in taking their action to protect consumers in the banking marketplace with the implementation of the remedies.

We however have a concern that the open banking data sharing framework is not yet working as it should. The market is nascent, under-developed and continues to evolve. For example, 98% of all API calls are for sharing account information, and only 2% for payment initiation services. There is still a fundamental lack awareness amongst many UK consumers of the initiative and its benefits. Our experience shows that many organisations have spent the last **12-18 months 'proving-out'** open banking services and the benefits to their business. Only now are some of these organisations starting to consider deploying these services operationally, embedding them into their everyday



services. There remain issues over access, engagement and use of the data via the current system. In order to address these challenges and create a consumer centric environment for data sharing in this capacity to thrive, promoting competition, switching and consumer engagement, more must be done to evaluate the gaps that exist and address accordingly. There exist gaps in guidance such as the Consumer Experience Guidelines which in our opinion need further work, an example being the prescribed consent language and clarity and consistency needed in this approach to correct it from its current state of being too repetitive and complex. We would question whether downscaling OBIE and integrating into a new CMA9 entity via UK Finance is the right thing to do.

Upon evaluation of the proposed solution, the evident concern relates to the separation of interests. There appears from the detail of the proposed structure that the larger lenders would have a powerful interest in not only determining the structure of the new organisation but also the voting rights weighted on size. This would lead to the consumer, fintech and other representatives being powerless in the face of opposition of the CMA9. Any proposed future solution must fairly weight the interests and control of consumers and organisations in the structure. We remain concerned about the issues that sit around step-in rights and the triggers for these rights to be enacted, which by default could give an unfair advantage to some AISPs over others if there isn't clarity and consistency of oversight.

We would under the proposed structure have a concern about who appoints who, particularly the Board structure. It is not clear in the current draft proposal how independence would be maintained through this process and whereby default the CMA9 would have influence over the makeup. It is also unclear how fintechs, smaller entities and start-ups, as well as a consistent and comprehensive consumer voice, would be adequately represented within the composition of the management structure beyond a token representation.

On the issue of funding of the new organisation we understand and appreciate the concern around the operating cost of the OBIE and that this burden is currently felt by the CMA9. Our concern would be that transitioning to a services-based model in a short time frame would lead to cost efficiencies in the short term for the CMA9 directly, however the wider cost burden of support, technical work and standards, monitoring etc that would fall outside the scope of pure services provision. This would mean increased costs for those market entrants who may need more support to engage with the benefits of open banking and may lead to further market exclusion. We would like to highlight that any significant changes to the infrastructure on Open Banking into new future areas would have to be funded, and we would naturally question how this will be done.

The other area of concern is the reference to further commercialisation of the network. Information on the scope of this is unclear and gives rise to the concern that banks would be give authority to charge TPPs to access data in the future. This may stagnate innovation in this space and restrict the opportunity for fintech's and new market entrants.

Functioning of the remedy

In addition to our commentary concerning the future role of the OBIE, we would welcome the opportunity to share at this point in time our reflections on the wider functioning of the CMA remedy for Open Banking Data Sharing.



After a good uptake of applications from service providers, with evidently large number of fintech and new market entrants registering to provide account information service provision and payment service provision, we have seen relatively few come to scale in the market, and therefore effect the proposed outcome of open banking data sharing as a remedy for CMA9 dominance in the marketplace to encourage switching and consumer choice has not necessarily been achieved using the pure tool of PSD2 provisions.

We are the only major UK consumer brand that is currently proactively marketing the benefits of open banking to consumers. We have worked over the past 2 years to bring our Experian Boost service to the market, an account information service provider, seeking to use open banking transactional data to aid consumers with boosting their credit score. We have seen over 500,000 sign ups so far to our service in the UK since its launch in December 2020. However, the journey is not as streamlined as we would have liked and the process for renewing consent is cumbersome. With stickiness in the consumer journey, need for active regular 3-month re-consent for data use, and stringent restrictions on what that data can be used for, despite additional service provision enabling competition, switching and positive consumer engagement in their finances, we understand why other market entrants fail to get to scale.

This is a worrying trend and our view is primarily that more needs to be done not only via the process of amending the technical provisions around the 90-day re-consent requirement for the consumer with each of the lenders that they have engaged in the data sharing process, via the forthcoming FCA potential rule changes, but that there needs to be a reflection by the CMA as to the competition remedy and its efficacy as the fix to the CMA9 control of consumer financial data. The ability to share this financial data of consumers via open banking, has a much wider impact than just facilitating fintech and innovator access into the market, it stimulates challenger market entrance placing these lenders also on a level playing field. But most importantly when used effectively it can empower the consumer not only to engage with their financial services data, but also to seek out and switch financial products and services. A proof point being the future ability to have bespoke offers determined by the transactional data on the individual sent to the consumer encouraging switching, saving, more appropriate products etc, this will lead to a game changing shift in the outcome for consumers in the UK, who have been reticent to proactively engage in this type of activity despite the CMA's efforts to promote switching and shopping around in recent years.

We also have concerns at the lack of market adoption of the payment APIs and the opportunities these provide for consumers and Third Parties to create more seamless payment experiences for customers. With the existing payments infrastructure under the control of FI's open banking's ability to accelerate competition into the payments market runs the risk of stalling if left in the hands of incumbent providers to oversee its continued management and growth.

Finally, we believe that the future proposed funding structure for the evolution of the OBIE needs further clarity and detail so that the balance between the role of TPPs and ASPSPs can be properly understood. Key considerations need include an understanding of the drivers of growth for the ecosystem and the likely impact of asking TPPs to contribute to its maintenance and its capacity to stifle innovation and growth.

We therefore would encourage the CMA to look on a wider basis at the opportunity for consumers in the longer term and seek in light of the UK's exit from the EU, whether a review of the framework



generally, future proofing the data sharing framework for the technological and innovation challenges ahead would have wider positive competition benefits.

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