October 16, 2020

Consumer Data Right Project Team
Commerce, Consumers and Communications
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140

Submitted by electronic mail: consumerdataright@mbie.govt.nz

Dear Consumer Data Right Project Team,

Visa welcomes the opportunity to provide a submission in response to the Ministry of Business, Innovation and Employment's (MBIE) discussion document on *Options for establishing a consumer data right in New Zealand*. As a company that values our longstanding relationship with the New Zealand Government, Visa is committed to working with MBIE as it considers the most appropriate data-sharing model for the country's residents and businesses. Below are the principles Visa recommends MBIE use as a guide in developing a consumer data-sharing model. While our comments are focused on data-sharing in the banking sector, they may help to inform data-sharing in other sectors as well. We expand on these points in the "Submission on discussion document" form that follows.

Visa has closely consulted and collaborated with governments across the globe on their respective data-sharing policies in the banking sector. Our experience demonstrates that a flexible, market-driven, and sustainable data-sharing model – instead of highly prescriptive and overly burdensome regulatory mandates – can be most effective in boosting innovation and ensuring the uptake of data-sharing. Any consumer data-sharing model should provide consumers with appropriate levels of protection, while continuing to foster innovation and efficiency. We believe this can contribute to New Zealand's long-term economic growth and international competitiveness, as well as delivering broad benefits to consumers and businesses.

We encourage MBIE to incorporate the following principles when developing a data-sharing model:

1. A flexible and principles-based consumer data-sharing model

Visa believes that an effective consumer data-sharing model should be principles-based, flexible, and agile enough to encourage innovation and allow different technologies and business models to emerge across all levels of the value chain. A flexible data-sharing model can boost the broad adoption of data-sharing and more easily adapt to future innovation and technologies. This is, for example, an outcome we have observed in Hong Kong, Japan, Singapore, and South Korea, among other jurisdictions, which have opted for a voluntary approach to Open Banking, as well as in the United States, which has opted for a market-led approach, with industry driving the exposure of high quality Application Program Interfaces (APIs) in response to consumer demand.

In Hong Kong, for example, the Hong Kong Monetary Authority adopted a forward-looking direction for its Open Banking Phase II Common Baseline, which allows financial institutions to take a flexible and tailored approach to Third-Party Service Providers (TSPs) and risk management. This agile approach to onboarding TSPs has been essential in driving adoption and innovation, particularly as it provides financial institutions with guidance on how to collaborate with TSPs and does not create additional regulatory requirements. We see additional evidence of the success of this model as industry is already considering the use of APIs beyond retail banking, including in commercial banking, securities, asset management, and insurance.

Conversely, Visa has observed that overly prescriptive regulatory approaches in some jurisdictions have hindered the adoption of initiatives intended to establish consumer data rights. This is because prescriptive rules are unlikely to support the same variety and speed of innovation as more flexible approaches, or to adapt as effectively to future innovation. For example, while the second Payment Systems Directive (PSD2) was intended to play a role in kick-starting Open Banking across Europe, the prescriptive nature of the regulation (*e.g.,* regulatory technical standards, strict 90-day strong customer authentication requirements, and no-cost APIs) has led to a slow adoption of services and delays in implementation. Additionally, UK regulators are currently examining whether Open Banking has been effective in the country and how to address regulatory barriers before any potential expansion of data-sharing into new financial products and services. Specifically, the Financial Conduct Authority (FCA) is evaluating how to appropriately balance regulation and innovation as well as how to ensure that market dynamics can support continued investment in Open Banking.[1] As another example, in Australia, regulators are now evaluating and consulting with industry on whether rules in the overarching Consumer Data Right framework, which currently underpin data sharing in the banking sector, could be amended to lower barriers to entry, create more flexibility and thereby increase innovation.[2]

2. Inclusion of diverse ecosystem participants

A flexible model that encourages participation from new and emerging participants such as start-ups and fintechs, as well as from traditional participants such as financial institutions and payment networks, results in greater innovation, consumer choice, and resiliency of data-sharing across multiple sectors.

Broad participation by industry players across the ecosystem will result in tangible benefits to consumers and the economy at large. The more inclusive and vibrant the ecosystem, the more innovation there will be in the marketplace through new or improved products and services. Additionally, for New Zealand to gain the full benefit of the introduction of a consumer data-sharing model, it is critical that principles are applicable to all sectors, including government. Common data-sharing protocols across sectors will create efficiencies that will reduce cost and accelerate the growth of data sharing – with marketplace benefits for all.

[1] For example, the Financial Conduct Authority (FCA) in the United Kingdom is consulting on whether to expand Open Banking to Open Finance. As part of the consultation, the FCA is seeking inputs on whether 'open banking is on track to achieve its potential' and notes that 'barriers may exist that prevent [third party providers] from offering more and better services to customers' and that '[s]ome of these barriers may be due to limitations in the regulatory framework […]'. *See, e.g.,* https://www.fca.org.uk/publication/call-for-input/call-for-input-open-finance.pdf.

[2] In July 2020, Visa responded to a consultation from the Australian Competition and Consumer Commission ("ACCC"), which sought views on how the CDR Rules and the accompanying Privacy Impact Assessment should permit third party service providers to collect or facilitate the collection of CDR data from data holders on behalf of accredited persons ('intermediaries'). The proposed changes would allow accredited persons to utilise other accredited parties to collect CDR data and provide other services that facilitate the provision of goods and services to consumers.

One fundamental component of an inclusive ecosystem will be the ease with which fintechs and developers can enter the ecosystem. Visa encourages MBIE to consider an agile and tiered approach to accreditation to support the rapid and robust entry of participants. For example, the requirements to gain accreditation, and the level of accreditation, should be proportionate to the risk, scope and nature of services offered. A 'one size fits all' approach to accreditation that is not adaptable to the range of goods and services that different ecosystem participants may offer could unintentionally lead to fewer new participants and less innovation in New Zealand. Conversely, a more inclusive environment will encourage more innovators to participate in the New Zealand ecosystem, making it both more competitive and responsive to consumer and business needs.

3. Intermediaries as drivers of value, security, and efficiency

Any consumer data-sharing model needs to be flexible enough to allow competition to thrive at all levels of the value chain. In a consumer-focused data-sharing financial ecosystem, Visa believes there is a significant and essential role for intermediaries that can contribute additional value and economic efficiency for all ecosystem participants. For instance, intermediaries, such as Visa, that are trusted leaders in the technology space can also leverage their experience in cybersecurity, encryption technology, and fraud and risk monitoring to drive participant and consumer trust in New Zealand's data-sharing ecosystem.

At Visa, we believe security must keep pace with payments innovation and convenience. Robust security measures are critical for ensuring consumer trust in the financial services system. A secure environment for enabling data-sharing – through encryption or other means – makes it easier for developers to create services that consumers can trust across multiple accounts. For consumers, this environment creates a sense of security when sharing their data, and facilitates data-sharing in ways that create value for consumers without having to establish multiple connections. Consumer confidence in the security of a consumer data-sharing model is integral to its success.

4. Commercial incentives to ensure continued investment in the ecosystem

A core principle of a consumer data-sharing model should be to allow natural marketplace forces to drive commercial relationships among ecosystem participants and product design. As consumer data sharing flourishes in New Zealand, different roles will emerge – from service providers to developers to intermediaries – and Visa encourages MBIE to avoid prescriptive rules that will stifle these dynamics. Specifically, participants in the ecosystem should be free to manage the terms of their commercial relationships, allowing for new business models to emerge which will, in turn, lead to new products and services for the benefit of consumers. This will be important not just in the early stages of consumer data sharing in New Zealand, but also in the later stages where gaps in products, services, or providers may become evident, and industry will have to create marketplace solutions. Prescriptive mandates that result in limiting commercial relationships, or the design and delivery of products and services, could not only hinder innovation at large, but may also unnecessarily delay the uptake of data sharing.

5. Interoperable, consumer-focused, Application Programming Interfaces (APIs)

Broad representation from industry in the financial ecosystem is also more likely to result in the development of APIs that work universally for all data-sharing participants and across multiple use cases, with a focus on the consumer experience. Industry should develop API standards that are interoperable, meet certain performance and availability requirements, and allow for commercial viability. These standards should be developed by industry to ensure that regulation does not stifle

the development of new business models or services that benefit consumers. Such standards will allow New Zealand companies to emerge locally, and then quickly scale to other geographies through interoperable systems.

6. Empowering consumers to manage their data

Earning consumers' trust requires a commitment to the privacy and security of their data, and transparency as to its intended handling and use. A successful consumer data-sharing model should ensure both commercial flexibility and the responsible treatment of data. The two are not mutually exclusive; in fact, they are complementary.

Visa believes successful consumer data-sharing should place consumer control at the centre of data management and be supported by robust data use principles and practices. Consumers should be empowered to make informed decisions when enrolling in a service that enables them to provide permissioned access to their data and should have the ability to easily access and update their permissions and preferences. Consumer trust and informed decision-making will be fundamental to widespread adoption of a consumer data right and related data-sharing products.

7. Data sharing as a catalyst for inclusion and information equality

Introducing a consumer data-sharing model presents a unique opportunity to create and deliver innovative products and services that may not otherwise be available to a significant number of New Zealand consumers and Micro, Small, and Medium Enterprises (MSMEs). This, in turn, can help consumers and MSMEs unlock economic opportunities through innovative new financial services in addition to traditional banking services.

Similarly, empowering consumers to use their data – not just banking data, but potentially from other sources as well – to develop a better picture of their financial wellbeing would offer a unique opportunity to deliver meaningful change and value to their everyday lives. For example, organisations that provide services aimed at assisting consumers in difficult financial situations could (with the consumer's consent) use the consumer's data from a range of sources to formulate a better plan for managing their personal finances.

Additionally, as broader aspects of society, including commerce, become increasingly digitised, there is a growing need for secure, trusted, and instantly verifiable digital identity systems that can reduce friction for onboarding individuals and businesses onto a financial or other consumer product or service within a data-sharing ecosystem. In many ways, the ability to easily confirm one's identity may impact the types of services, products, and information an individual or business owner can receive. It is an essential tool for commerce and for accessing government and other services in the digital age.

Visa believes that secure digital identity systems based on internationally accepted principles can improve efficiency and user experiences at the moment of accessing a product or service, or engaging in a transaction or interaction, while simultaneously improving security and reducing fraud. Though we appreciate that the scope of a consumer data-sharing model may not seek to encompass digital identity at this stage, we encourage MBIE to consider such practical solutions that address consumer experience within a consumer data-sharing model.

8. Representative governance

Visa encourages MBIE to consider that any working group or governance standards body focused on guiding the development and implementation of data-sharing standards should include representatives from sectors that may come into scope. As an example, financial institutions, as well as members of the broader financial ecosystem including payment networks, will be important contributors to innovation and emerging technologies. Common data-sharing protocols and consent standards will reduce the cost and accelerate the growth of data sharing with marketplace benefits for all parties.

Following MBIE's review of Visa's submission, I would welcome the opportunity to discuss with MBIE representatives in more detail the establishment of a consumer data-sharing model in New Zealand in an effort to ensure it is successful and sustainable. It would also be my pleasure to connect MBIE with Visa colleagues in other jurisdictions to discuss developments and progress in other geographies.

Yours faithfully,

Martin Kerr
Country Manager – New Zealand and South Pacific
Visa International Asia Pacific New Zealand LtdVisa Worldwide (NZ) Limited
Email: mkerr@visa.com
Mob: +64 21 775 727

ABOUT VISA

Visa is the world's leader in digital payments. Our mission is to connect the world through the most secure, reliable and innovative payment network – enabling individuals, businesses and economies to thrive. Our advanced global processing network, VisaNet, provides secure and reliable payments around the world, and is capable of handling more than 65,000 transaction messages a second. The company's relentless focus on innovation is a catalyst for the rapid growth of digital commerce on any device for everyone, everywhere. As the world moves from analog to digital, Visa is applying our network, people, products and scale to reshape the future of commerce.

Building the future of commerce

In New Zealand, Visa has a physical presence in Auckland. Together with our New Zealand financial institution, fintech and merchant partners, as well as our technology partners, we are committed to building a future of commerce that fosters the country's economic growth and innovation. One way we are realising this is through Visa Partner Portal and Fintech Fast Track. The programs provide New Zealand fintechs with access to Visa's technologies, networks and solutions, enabling businesses to scale their solutions for the benefit of consumers, businesses and the economy. An active member of New Zealand's technology community, Visa also supports the prestigious Hi-Tech Awards in the category of Best Hi-Tech Solution for the Public Good.

Visa also operated a fully owned subsidiary, Fraedom Inc., a leading software-as-a-service technology company providing payments and transaction management solutions for financial institutions and their corporate customers. Fraedom is headquartered in Auckland and supports more than 170,000 organisations in 178 countries.

Additionally, Visa is a member of Digital Identity NZ and Fintech NZ and contributes to these industry groupings, especially through our global experience and perspectives. We also have a close relationship with Payments New Zealand, Retail New Zealand and the New Zealand Bankers Association, and we regularly consult with them on matters relating to the New Zealand payments ecosystem.

Enabling convenience, security and trust

As a network business built on partnerships, Visa continues to enable new payment flows and expand acceptance, ensuring that every New Zealander can pay, and be paid, in a convenient and secure way. We work with the broader payments ecosystem to ensure security is at the forefront of such technology, including tokenisation, AI-powered fraud prevention, biometrics and digital identity solutions. In 2019, Visa launched the Future of Security Roadmap, outlining how New Zealand can collectively work towards a more secure payments ecosystem through industry initiatives and standards.

Supporting New Zealand businesses

Enabling New Zealand businesses to thrive is at the heart of Visa's mission. As the trend towards digital continues, Visa is committed to enabling New Zealand businesses to adapt and grow through payments innovation. This year, we launched Where You Shop Matters, an initiative to connect consumers with local businesses in their communities, with Visa's e-commerce tools helping to support small businesses selling to an increasingly online consumer base. During reduced COVID-19 alert levels, Visa's Back to Business Locator Tool helped to promote New Zealand businesses open and trading through an online directory powered by VisaNet.

To learn more, visit www.visa.co.nz

Submission on discussion document: *Options for establishing a consumer data right in New Zealand*

Your name and organisation

Name	Marty Kerr, Country Manager – New Zealand & South Pacific
Organisation	Visa Worldwide (NZ) Ltd

Responses to discussion document questions

Does New Zealand need a consumer data right?

1 ***Are there any additional problems that are preventing greater data portability in New Zealand that have not been identified in this discussion document?***

Visa believes that the development of a flexible, market-driven, and sustainable consumer data-sharing model can contribute to New Zealand's long-term economic growth and international competitiveness. Informed consumer consent and data security will be critical to building and maintaining consumer confidence in data sharing and the successful adoption of a consumer data-sharing model. An interoperable and standardised model, with appropriate commercial incentives and agile entry requirements, will also be central to encouraging broad adoption by participants in the ecosystem.

Visa notes that, currently, Application Program Interfaces ("APIs") have entered the marketplace in New Zealand. We support the development of APIs that work universally across multiple use cases, with a focus on the consumer experience. For example, industry should develop API standards that are interoperable, meet certain performance and availability requirements, and allow for commercial viability. Industry should develop these standards to ensure that regulation does not stifle the development of new business models or services for consumers. It is important to note, however, that until such APIs are developed and ample connectivity and adoption is accomplished, credential-based access and screen scraping have provided pathways for consumers to use and share their own financial data, as well as to boost innovation as a result of consumer demands.

For the reasons above, which we detail further below, Visa supports the establishment of a consumer data-sharing model in New Zealand.

2 ***Do you agree with the potential benefits, costs or risks associated with a consumer data right as outlined in this discussion document? Why/why not?***

Visa agrees with the benefits outlined on page 10 of the discussion draft. This list reflects many of the benefits emerging in other geographies that have adopted flexible, data-sharing models. For New Zealand residents to gain the full benefit of the introduction of a consumer data-sharing model, the focus could be on multiple sectors, as solely focusing on a single sector, such as banking, would not realise the full benefits of data-sharing. Should a data-sharing model eventually include multiple sectors, common data-sharing protocols create efficiencies which reduce cost and accelerate the adoption and growth of data-sharing – with marketplace benefits for all.

The discussion document notes the risk of delayed innovation if a consumer data-sharing model is developed in New Zealand. However, Visa believes a principles-based and agile

	approach with proper commercial incentives in place will mitigate this risk potential and, in fact, encourage innovation and allow different technologies and business models to emerge across all levels of the value chain. A flexible approach can also boost the broad adoption of data sharing, including Open Banking, and more easily adapt to future innovation and technologies. These are, for example, outcomes we have observed in Hong Kong, Japan, Singapore, and South Korea, among other jurisdictions, which have opted for a voluntary approach to Open Banking, as well as in the United States, which has opted for a market-led approach. The discussion document lists "strengthened privacy and data protections" as a benefit associated with a consumer data right, but also lists "increased security and privacy concerns" as a risk (MBIE discussion document, page 10). Visa agrees with MBIE that increased data sharing can raise security and privacy concerns if implemented without proper safeguards – indeed, a comprehensive security approach is paramount to drive consumer trust in data sharing. Visa supports robust data security and privacy measures that will allow consumers to access their data, while also ensuring the safety of that data and the ability to securely transfer that data within the existing banking and payments ecosystem. It is important that consumers receive sufficient information in order to make informed decisions; understand how their data is being used; and have assurances this will be done in a secure and responsible manner. We discuss this further in response to Question 8 below.
3	***Are there additional benefits, costs or risks that have not been explored in the above discussion on a consumer data right?***
	In addition to what MBIE has outlined in its discussion document, Visa believes that the establishment of a consumer data-sharing model will be critical to accelerate financial inclusion and information equality. We are committed to helping drive financial inclusion across New Zealand and believe that the introduction of a consumer data-sharing model presents a unique opportunity to create and deliver innovative products and services to underbanked individuals and MSMEs. A larger ecosystem of financial technologies and participants – powered by the broader use of permissioned data – can help individuals and businesses unlock economic opportunities by increasing their means to access novel financial services in addition to traditional banking services. In the long term, a consumer data-sharing model can serve as a key component of sustainable economic growth in New Zealand.
4	***What would the costs and benefits be of applying the consumer data right to businesses and other entities, in addition to individuals?***
	As noted above, Visa sees great value in extending a consumer data-sharing model to MSMEs. MSMEs are the backbone of economies around the world, representing up to 70% of total global employment. To achieve their potential, MSMEs need to overcome significant challenges, including access to – and acceptance of – financial products and services. Additionally, a consumer data-sharing model could reduce consumers' costs, in terms of time and effort, when applying for new services or migrating between different providers in other economic sectors.
5	***Do you have any comments on the types of data that we propose be included or excluded from a consumer data right (i.e. 'consumer data' and 'product data')?***

Visa agrees with MBIE's assessment of the types of data to be included in consumer data-sharing (*e.g.,* provided or observed data, and product data). We agree that derived data should be excluded from the definition of consumer data as its inclusion may discourage fintechs and other participants from developing innovative solutions and services that use consumer data to generate insights and recommendations. Otherwise, fintechs and other participants would be limited in their ability to deliver new innovations, products, and services to consumers.

Additionally, appropriately identifying and narrowing the scope of data to be included is critical to encourage, support, and protect ongoing investment in and development of intellectual property.

6 ***What would the costs and benefits be of including both read access and write access in a consumer data right?***

Robust security measures are critical for ensuring consumer trust in the financial services system. The success of "read access," or data sharing, should be fully evaluated before consideration of "write access" requirements. While Visa sees an important role for write access, it should follow only once read access for a consumer data-sharing model has been securely implemented and adopted. Consumer confidence in the security of a consumer data-sharing model is integral to its success. Implementing write access before the security elements are fully tested could put the success of the data-sharing ecosystem at risk. Furthermore, phasing the implementation of secure read access before focusing on write access also encourages faster speed to market for consumer data sharing. When the New Zealand Government considers introducing write access, we recommend a consultative process, much like this one, to ensure proper security and operational success.

What form could a consumer data right take in New Zealand?

7 ***Do you have any comments on the outcomes that we are seeking to achieve? Are there any additional outcomes that we should seek to achieve?***

In addition to the outcomes outlined by MBIE – namely, consumer welfare and economic development – Visa believes that the development and implementation of a consumer data-sharing model could contribute to New Zealand's international competitiveness. A consumer data-sharing model that would serve as a catalyst for data-sharing could result in potentially new products and services in already established industries and sectors, or even lead to the creation of new industries and sectors. As noted above, the focus of a consumer data-sharing model should be on multiple sectors. This is especially relevant given that some of New Zealand's biggest trading partners already have begun, or are considering, the transition toward a data-sharing economy.

8 ***Do you have any comments on our proposed criteria for assessing options? Are there any additional factors that should be considered?***

Visa encourages MBIE to consider the following additional criteria in assessing options to establish a consumer data-sharing model:

- **Adaptability.** We encourage MBIE to consider a consumer data-sharing model that is flexible and agile enough to adapt to new technologies and business models. This ensures that it will remain sustainable in a rapidly changing and technology-intensive domestic and global economy.

- **Ability to accelerate innovation.** Any proposed consumer data-sharing model should ensure that it can accelerate innovation through the use of standardised technical specifications as well as the freedom to develop commercial models that enable developers and start-ups to quickly deliver new products and services to consumers and MSMEs. In this regard, a flexible and agile model is fundamental, as an overly prescriptive framework risks stifling innovation that would benefit consumers and businesses.

- **Consumer choice.** We encourage MBIE to approach data-sharing with a consumer-focused lens. Visa believes in empowering consumers with robust tools to manage their data. A key focus of consumer data-sharing in New Zealand should be enabling greater consumer choice, whether for managing financial data, unlocking new possibilities like paying bills securely on a third-party app, or sharing historical account data with service providers. It is critical to emphasise that a successful consumer data-sharing model should ensure both commercial flexibility and the responsible treatment of data.

- **Impact on inclusion and information equality.** An effective consumer data-sharing model should enable financial institutions, payment networks, and the broader financial ecosystem to build more innovative financial services products, enhance consumer experiences and strengthen their consumer relationships. For example, with consumer consent, a financial management app could use consumers' transaction histories to provide them with a full-wallet view of their spending. This highlights opportunities for consumers to save money via budgeting and proactive money management.

9	***Do you have any comments on the discussion of Option one: Status quo?***
	With respect to Questions 9 through 12, we encourage MBIE to be guided by the principles outlined in our cover letter above, and included in our response to Question 13.
10	***Do you have any comments on the discussion of Option two: A sectoral-designation process?***
	With respect to Questions 9 through 12, we encourage MBIE to be guided by the principles outlined in our cover letter above, and included in our response to Question 13.
11	***Do you have any comments on the discussion of Option three: An economy-wide consumer data right?***
	With respect to Questions 9 through 12, we encourage MBIE to be guided by the principles outlined in our cover letter above, and included in our response to Question 13.
12	***Do you have any comments on the discussion of Option four: Sector-specific approach?***
	With respect to Questions 9 through 12, we encourage the MBIE to be guided by the principles outlined in our cover letter above, and included in our response to Question 13.

13 ***This discussion document outlines four possible options to establish a consumer data right in New Zealand. Are there any other viable options?***

Each of MBIE's four proposed options in the discussion document has benefits and potential drawbacks. Visa's experience in geographies that have undertaken similar initiatives is that desired outcomes have been best achieved within a flexible and agile consumer-data sharing model that takes a 'light touch' approach that enables industry to innovate while protecting the rights of consumers.

In this context, we believe the development of a consumer data-sharing model in New Zealand should be guided by the following principles and best practices:

1. A flexible and principles-based consumer data-sharing model

Visa believes that an effective consumer data-sharing model should be principles-based, flexible and agile enough to encourage innovation and allow different technologies and business models to emerge across all levels of the value chain. A flexible model can boost the broad adoption of data sharing and more easily adapt to future innovation and technologies. This is, for example, what we have observed in Hong Kong, Japan, Singapore, and South Korea, among other jurisdictions that have opted for a voluntary approach to data sharing, with industry driving the exposure of high-quality APIs in response to consumer demand. In Hong Kong, for example, the Hong Kong Monetary Authority adopted a forward-looking direction for its Open Banking Phase II Common Baseline, which allows financial institutions to take a flexible and tailored approach to Third-Party Service Providers (TSPs) and risk management. This agile approach to onboarding TSPs has been essential in driving adoption and innovation, particularly as it provides financial institutions with guidance on how to collaborate with TSPs and does not create additional regulatory requirements. We see additional evidence of the success of this model as industry is already considering the use of APIs beyond retail banking, including in commercial banking, securities, asset management, and insurance.

Conversely, Visa has observed that overly prescriptive regulatory approaches in some jurisdictions have hindered the adoption of initiatives intended to establish consumer data rights. This is because prescriptive rules are unlikely to support the same variety and speed of innovation as more flexible approaches, or to adapt to future innovation. For example, while regulation was intended to kick-start Open Banking in the United Kingdom, the prescriptive nature of the regulation (*e.g.,* no-cost APIs and strict 90-day authentication requirements) has led to a slower adoption of services. Regulators are now evaluating the appropriate balance between regulation and innovation and, in particular, how to ensure that market dynamics support continued investment in Open Banking.

As another example, in Australia, where regulation was also used to kick-start broad consumer data sharing, regulators are now evaluating and consulting with industry on whether rules in the overarching Consumer Data Right framework could be amended to lower barriers to entry, create more flexibility and thereby increase innovation.

2. Inclusion of diverse ecosystem participants

A flexible model that encourages participation from new and emerging participants such as start-ups and fintechs, as well as from traditional participants such as financial

institutions and payment networks, results in greater innovation, consumer choice, and resiliency of data-sharing across multiple sectors.

Broad participation by industry players across the ecosystem will result in tangible benefits to consumers and the economy at large. The more inclusive and vibrant the ecosystem, the more innovation there will be in the marketplace through new or improved products and services.

One fundamental component of an inclusive ecosystem will be the ease with which fintechs and developers can enter the ecosystem. Visa encourages MBIE to consider an agile and tiered approach to accreditation to support rapid and robust entry of participants. For example, the requirements to gain accreditation, and the level of accreditation, should be proportionate to the risk, scope and nature of services offered. A 'one size fits all' approach to accreditation that is not adaptable to the range of goods and services that different ecosystem participants may offer could unintentionally lead to fewer new participants and less innovation in New Zealand. Conversely, a more inclusive environment will encourage more innovators to participate in the New Zealand ecosystem, making it both more competitive and responsive to consumer and business needs.

3. Intermediaries as drivers of value and efficiency

Any consumer data-sharing model needs to be flexible enough to allow competition to thrive at all levels of the value chain. In a consumer-focused data-sharing financial ecosystem, Visa believes there is a significant and essential role for intermediaries that can contribute additional value and economic efficiency for all ecosystem participants. For instance, intermediaries, such as Visa, that are trusted leaders in the technology space can also leverage their experience in cybersecurity, encryption technology, and fraud and risk monitoring to drive participant and consumer trust in New Zealand's data-sharing ecosystem. A secure environment for enabling data availability – through encryption or other means – makes it easier for developers to create services that consumers can trust across multiple accounts. For consumers, this environment creates a sense of security in data sharing and facilitates data sharing to create value for consumers without having to establish multiple connections.

4. Commercial incentives to ensure continued investment in the ecosystem

A core principle of a consumer data-sharing model should allow natural marketplace forces to drive commercial relationships among ecosystem participants and product design. As consumer data sharing flourishes in New Zealand, different roles will emerge – from service providers to developers to intermediaries – and Visa encourages MBIE to avoid prescriptive rules that will stifle innovation. Specifically, participants in the ecosystem should be free to manage the terms of their commercial relationships, allowing for new business models to emerge which will, in turn, lead to new products and services for the benefit of consumers. This will be important not just in the early stages of consumer data sharing in New Zealand, but also in the later stages where gaps in products, services, or providers may become evident, and industry will have to create marketplace solutions. Prescriptive mandates that result in limiting commercial relationships, or the design and delivery of products and services, could not only hinder innovation at large, but may also unnecessarily delay the uptake of data sharing.

To best support growth, we encourage MBIE to adopt a flexible, tiered, and risk-based accreditation mechanism, including for TSPs, as we believe accreditation and onboarding should not be subject to a 'one size fits all' model. A uniform set of requirements may unintentionally result in a market entry barrier for new players, which will ultimately stifle innovation. Similarly, uniform requirements may not be adaptable to the range of new and emerging goods and services that different TSPs, including intermediaries, may offer. Instead, we recommend that the requirements to become accredited should be tiered as proportionate to the risk, scope, and nature of the services being offered by the TSPs.

5. Interoperable, consumer-focused, Application Programming Interfaces (APIs)

Broad representation from industry in the financial ecosystem is also more likely to result in the development of APIs that work universally for all data-sharing participants and across multiple use cases with a focus on the consumer experience. For example, industry should develop API standards that are interoperable, meet certain performance and availability requirements, and allow for commercial viability. These standards should be developed by industry to ensure that regulation does not stifle the development of new business models or services for consumers. There are many benefits to standardisation, including creating an ecosystem that can easily integrate new participants; leveling the playing field in terms of access to data and services; standardising the requirements for data providers so they have clear guidance on how to comply; ensuring consumer consent to access data and services; and fostering a consumer data-sharing experience – for example, through user experience (UX) standards – that breeds familiarity and encourages consumer adoption. Such standards will allow New Zealand companies to emerge locally, and then quickly scale to other geographies through interoperable systems.

6. Empowering consumers to manage their financial data

Earning consumers' trust to handle and use their financial data requires a commitment to privacy, security, and transparency. A successful consumer data-sharing model should incorporate both commercial flexibility and the responsible treatment of data. The two are not mutually exclusive; in fact, they are complementary.

We believe successful consumer data-sharing should place consumer control at the centre of data management, and be supported by robust data use principles and practices. Consumers should be empowered to make informed decisions when enrolling in a service that enables them to provide permissioned access to their financial data. Consumers must also have the right to update their preferences or withdraw consent at any time. Consumer trust and informed decision-making will be fundamental to widespread adoption of a consumer data right and related data-sharing products.

7. Data sharing as a catalyst for financial inclusion and information equality

Introducing a consumer data-sharing model presents a unique opportunity to create and deliver innovative products and services that may not otherwise be available to a significant number of New Zealand consumers and MSMEs. Taking this step can help consumers and MSMEs unlock economic opportunities by increasing their means to access a broad spectrum of consumer products and services, including innovative new financial services in addition to traditional banking services.

Additionally, as broader aspects of society, including commerce, become increasingly digitised, there is a growing need for secure, trusted, and instantly verifiable digital identity systems that can reduce friction for onboarding individuals and businesses on to a financial, or other, consumer product or service within a data-sharing ecosystem. In many ways, one's identity and the ability to easily confirm one's identity may impact the types of services, products, and information an individual or business owner can receive. It is an essential tool for commerce and for accessing government and other services in the digital age.

Visa believes that secure digital identity systems based on internationally accepted principles can improve efficiency and user experience at the moment of accessing a product or service, or engaging in a transaction or interaction, while simultaneously improving security and reducing fraud. Though we appreciate that the scope of a consumer data-sharing model may not seek to encompass digital identity at this stage, we encourage MBIE to consider such practical solutions that address consumer experience within a consumer data-sharing model.

8. Representative governance

Visa encourages MBIE to consider that any working group or governance standards body focused on guiding the development and implementation of data-sharing standards should include representatives from sectors that may come into scope. As an example, financial institutions, as well as members of the broader financial ecosystem including payment networks, will be important contributors to innovation and emerging technologies. Common data-sharing protocols and consent standards will reduce the cost and accelerate the growth of data sharing with marketplace benefits for all parties.

14	***Do you have any comments on our initial analysis of the four options against our assessment criteria?***
	Please see our response to Question 13 for a comprehensive perspective on the consumer data-sharing model that we believe will be most effective in New Zealand.
15	***Do you agree or disagree with our assessment that Option two is most likely to achieve the best outcome using the assessment criteria?***
	Please see our response to Question 13 for a comprehensive perspective on the consumer data-sharing model that we believe will be most effective in New Zealand.

How could a consumer data right be designed?

16	***Do you agree with the key elements of a data portability regime as outlined in this section? Are there any elements that should be changed, added or removed?***
	Based on Visa's global view of the effectiveness of various data-sharing approaches in other geographies, and as a complement to our response to Question 13, we note the following key considerations in developing a consumer data-sharing model in New Zealand:

Consumer choice and transparency will underscore a trust-based data-sharing ecosystem.
Visa supports MBIE's focus on consumer consent and transparency. We believe in empowering consumers with tools to easily access, manage, and use their financial information. When presented with an opportunity to enable services that require access to consumers' personal information, consumers should receive clear guidance on why they are being asked to provide the requested access and how their personal information will be used. Consumers should also be offered simple and consistent information about their choices.

Support for privacy safeguards and consumer consent is critical.
The discussion document states that data sharing may strengthen existing privacy protections for consumers (MBIE discussion document, pages 13, 15, 18). As discussed in Visa's response to Question 8 above, we believe in empowering consumers with tools to easily access, manage, and use their personal information. To ensure ease of compliance, Visa encourages regulators to harmonise any new consumer data-sharing provisions with existing and proposed data privacy and consumer protection regulations in New Zealand.

Industry-led processes will underscore an efficient consumer data-sharing model.
Visa commends MBIE for proposing "an industry data-specification process to review and reach an agreement on exact definitions of consumer data and product data for the industry" (MBIE discussion document, page 20) and agrees that this will provide greater flexibility. We would welcome the opportunity to be involved in an industry data-specification process of this nature.

19 ***How could a consumer data right be designed to protect the interests of vulnerable consumers?***

Visa believes in universal acceptance for everyone, everywhere. In response to this question, we interpret vulnerable consumers to include underbanked individuals as well as individuals with disabilities.

Earning consumer trust to handle and use consumers' financial data necessitates a commitment to privacy, security, and transparency. Consumers should be empowered to make informed decisions based on transparency about how the data is used, assurances that it will be used responsibly, and rights to update the data or withdraw consent. Consumer trust and informed decision-making are critical and will be fundamental to widespread adoption of data-sharing products and services. We believe this trust must extend to all consumers, including vulnerable individuals.

In the context of underbanked individuals, initiatives based on a consumer data-sharing model, such as Open Banking, can integrate a greater number of consumers and MSMEs into the formal economy and serve as a tool for long-term, sustainable economic growth and development. Open Banking can be an important catalyst for financial inclusion and presents a unique opportunity to create and deliver innovative financial services for underbanked individuals and MSMEs. A larger ecosystem of financial technologies and participants, combined with the responsible use of data, can help individuals and small businesses unlock economic opportunities by reducing the barriers they face in accessing traditional banking services. With the implementation of a flexible, inclusive consumer

data-sharing model, Visa anticipates similar benefits for vulnerable consumers in other sectors, including government.

Visa's work to support vulnerable consumers also extends to efforts to improve user accessibility of payment products and services for individuals with disabilities. In 2007, Visa released the world's first large commercial website fully conforming to the Web Content Accessibility Guidelines (WCAG) 2.0 AA, the worldwide standard for building accessible web interfaces. In 2013, Visa distilled WCAG 2.0 into concrete requirements, tests, code snippets, tools, how-to videos and online training. We released these publicly in March 2019, so that anyone can take advantage of the knowledge Visa has built over the last decade when developing accessible web interfaces and consumer-facing products. We would be pleased to share more with MBIE about Visa's work in this area.

21 ***How could a consumer data right be designed to ensure that the needs of disabled people or those with accessibility issues are met?***

Please refer to Question 19 for a view on how consumer data-sharing models can support the interests of vulnerable consumers, including those with accessibility issues. Visa believes that any consumer data-sharing regime should be accessible to vulnerable consumers, including those with disabilities, to ensure equal participation and inclusion.

Visa has a dedicated accessibility team that provides support and consulting to help teams make accessible products globally. We have also spearheaded other initiatives to support accessibility and inclusion of individuals with accessibility issues. We would be delighted to share more about our work in this area with MBIE.

22 ***To what extent should we be considering compatibility with overseas jurisdictions at this stage in the development of a consumer data right in New Zealand?***

Compatibility will be a key issue that can help leverage a consumer data-sharing model in New Zealand, both domestically and internationally. Domestically, for example, interoperable standards can create a level playing field across industry participants, enabling a frictionless consumer experience today and supporting scalability in the future. Internationally, interoperable standards may create new financial and business opportunities for firms seeking to expand trans-Tasman ties and beyond. Technical and consent standards, therefore, should be industry-driven to ensure that participants possess the right technical skills and market experience to develop a blueprint that reflects market demand while supporting interoperability across a variety of use cases. Consistent, interoperable standards, including common API standards, will also help incentivise the creation of new and innovative products and services to grow the data-sharing financial ecosystem.

Visa strongly encourages MBIE to consider potential steps to harmonise any proposed provisions within a consumer data-sharing model with existing and proposed data privacy and consumer protection regulations. We also suggest that MBIE looks into potential ways to harmonise a proposed model with those of other jurisdictions, especially of key trading partners such as Australia. In this context, and as data privacy regulations in New Zealand and other countries evolve towards a more accountability-based model similar to the EU's GDPR, there is an opportunity to ensure greater consistency and compatibility between the various national regulations on sharing or cross-border transfers of personal data. In addition, we suggest that MBIE seeks to implement such harmonised principles in a manner that simplifies the consumer consent process without compromising transparency.

24	***Do you have any comments on the arrangements for establishing any new bodies to oversee parts of a consumer data right?***
	Visa encourages MBIE to consider that any working group or governance standards body focused on guiding the development and implementation of standards should include participants in the various sectors that the data-sharing model could potentially bring into scope. In the example of an Open Banking use case, this would include financial institutions and the broader financial ecosystem, such as payment networks and intermediaries, as this takes account of the participants' important contributions to innovation and emerging technologies.
26	***If government decides to establish a consumer data right, do you have any suggestions of how its effectiveness could be measured?***
	The effectiveness of a consumer data-sharing model in New Zealand can be measured by, among other things, the following elements: (1) **Flexibility and adoption:** Does the consumer data-sharing model in New Zealand create a flexible, agile, and commercially viable ecosystem that encourages broad adoption across the ecosystem? (2) **Innovation**: Does the consumer data-sharing model increase innovation in New Zealand, evidenced in part by facilitating the entry of new products, services, industries, and sectors? In addition to the introduction of new products and services, has the consumer data-sharing model improved the adoption and growth of existing products and services? (3) **Ecosystem agility and growth**: Does the consumer data-sharing model encourage the entry and sustainability of new participants in the ecosystem? (4) **Scalability and international competitiveness:** Is the consumer data-sharing model a flexible, adaptable, and industry-driven approach that could be adopted in other geographies and by additional sectors seeking to boost data-sharing across the economy? (5) **Accessibility**: Does the consumer data-sharing model encourage the development and adoption of products and services that are equally accessible to all consumers and businesses?