

Responses to questions

The Consumer Policy team welcomes your feedback on as many sections as you wish to respond to, please note you do not need to answer every question.

Status quo and problem definition	
1.	<p>How do you expect the implementation and use of open banking to evolve in the absence of designation under the Bill? What degree of uptake do you expect?</p> <ul style="list-style-type: none"> ● In the absence of designation, the implementation and adoption will depend on the big banks under Payments NZ, alongside voluntary industry initiatives. ● As a result, uptake will be more fragmented and therefore slower, diluting the outcome of open banking and reducing consumer confidence in its benefits, particularly in the absence of government endorsement.
2.	<p>Do you have any comments on the problem definition? How significant are the risks of suboptimal development and uptake under the status quo?</p> <ul style="list-style-type: none"> ● We think that the problem is well-defined. ● The risks of suboptimal development and uptake under the status quo are very high. ● This is because under the status quo, open banking would be defined by the Payments NZ API Centre. This is problematic because it is owned by the big four banks, and will most likely align open banking priorities more closely with maintaining the competitive positions of these banks rather than fully embracing disruptive innovation. ● Further to this, Payments NZ charges fees for membership, which limits participation by data recipients. ● We believe that the API standards developed by the API Centre are robust. Without a regulatory mandate however, adoption remains voluntary, which could limit the impact and consistency of these standards across the industry. ● Independent oversight is crucial for creating a level playing field, encouraging competition, and prioritising consumer interests. In Australia and the UK, open banking initiatives have been more successful when driven by independent regulators rather than bank-controlled entities. ● Our confidence in Payments NZ would be stronger if there were more regulatory mechanisms in place to ensure they operate in the broader interests of the economy and consumers, rather than predominantly serving the interests of the incumbent banks.
3.	<p>What specific objectives should the government be trying to achieve through a banking designation? What needs to happen to achieve these objectives?</p>

- The four objectives listed are good, and we would add two more that are complimentary to them.
- **Firstly, we believe that the government needs to legislate and impose fines on banks for poor open banking data quality, and that a measure of this quality is prominently displayed against each bank (like the interest rates on [interest.co.nz](https://www.interest.co.nz)).** This would be a transparent and up-to-date demonstration of a bank's commitment to their customers' ability to accurately and reliably use their data.
- This strategy would create powerful incentives for banks to improve their data handling practices and enhance the overall transparency of the financial sector.
- Further to this, banks should be mandated to use their open banking APIs in their own products to ensure data quality, fidelity, and consistency across the financial sector.
- It is our experience that open banking APIs have been implemented as a "box ticking exercise", resulting in poorer data quality and reliability, as well as inconsistencies between data displayed in third-party apps, vs what is displayed in the banks' own apps.
- This erodes consumer confidence in open banking, impacting uptake, and [bolstering the banks' arguments that a CDR offers limited value](#).
- Examples of this we've seen are duplicate or missing transactions, inconsistent merchant names, and data feed outages. These happen more frequently over open banking APIs than in the banks' own apps.
- Problems like the above create a degraded experience for third parties relative to what is available from the banks' own products. Furthermore, it creates an anti-competitive environment for fintechs because of the overheads incurred due to increased customer support pertaining to data issues, as well as the reputational damage incurred due to providing a "broken" service we have little control over.
- Food for thought: if banks are custodians of customer data, should customers be compensated by the banks if their requested data is not delivered on time, or is inaccurate? The same circumstances would not be tolerated if "customer data" was instead "customer funds".
- **Secondly, we believe that there should be a consumer education objective that increases awareness, understanding, and confidence in using open banking services. The focus should be on helping consumers make informed decisions about how to manage their financial data and engage with new financial technologies securely.**

	<ul style="list-style-type: none"> ● We believe that it should be mandated that banks take on a role in educating both their staff and customers about the CDR. This approach would help ensure that open banking practices are well understood, not only by those implementing them but also by the consumers who will benefit from these services ● It has been our experience in Australia where customers who are curious about the CDR have approached their banks only to be falsely told by front-line staff that open banking does not exist, and to not use third-party tools. ● For open banking to succeed, it is crucial that banks actively engage in consumer educational efforts, their employees have a deep understanding of open banking principles, and that there is consistency in messaging. ● The possibility that banks might deliberately withhold education from staff and consumers to sow distrust in open banking is a major risk to the successful delivery of the CDR.
4.	Do you have any comments on the criteria that should be used to assess designation options?
The Scope of an open banking designation	
5.	Do you agree that the banks covered and timeframes should be based on the API Centre Minimum open banking Implementation Plan? Do you have any concerns about the specific implementation dates suggested?
	<p>While including just the big four banks initially captures a large majority of banking activity, banking and other financial products have become increasingly fragmented over the years due to innovation. For example, we have investment platforms like Kernel and Sharesies, non-bank lenders like Latitude and American Express for credit cards and Squirrel and Simplicity for home loans - all of which fall outside the designation.</p> <p>A product like PocketSmith requires accessing data from this whole gamut of data holders. Therefore, what this means is that consumers will still need to use impersonated access methods such as web scraping to get all their data.</p> <p>40% of PocketSmith's New Zealand customers have a data feed from a data holder outside the big four banks.</p> <p>Ideally, there would be a roadmap to onboarding these non-bank lenders and other financial products and services too.</p>
6.	Do you have any views on the costs and benefits of designating a wider range of deposit takers, beyond the five largest banks?

	While implementing open banking is a cost, we must act with the consumer at heart and their best interests. We would like to see all banks/deposit takers required to implement open banking, like in Australia under CDR.
7.	Do you agree that, in the first instance, only requests by accredited requestors be designated? Do you have any comments on when and how direct requests by banking customers could be designated under the Bill?
	Yes, we agree the use case for direct-to-consumer is limited to power users and shouldn't be prioritised.
8.	Do you have any comments on the customer data to be designated?
	<ul style="list-style-type: none"> ● Transaction data and history limits are robust and in line with open banking globally. ● However, all account types that a user can access digitally from the data holder should be available to share. For example: <ul style="list-style-type: none"> ● Investment accounts, such as Kiwisaver, should be designated. ● Term deposits and term PIEs should be designated. ● Special attention should be paid to instances where an account is a joint account, or one held by a trust which the consumer has access to. These should also be made available, with appropriate controls. For example, Australia's CDR has joint account holders opted in to data sharing by default, but any account holder can revoke it. ● Secondary users, such as supplementary holders of a credit card (not to be confused with a joint account) should also be able to share data, with consent controls available for the primary cardholder.
9.	Do you have any comments on whether product data should be designated? What product data should be included? When should the product data designation come into force?
	<ul style="list-style-type: none"> ● Product data should eventually be designated, yes. ● Loans would be a good starting point: interest rates, repayment terms, fees, and table loan calculations would let third-party products help customers make smarter decisions about their debt. ● The proposed six months would be a great milestone to aim for.
10.	Do you have any comments on designating payments under the Bill? Should other actions be designated? If so, when?

The benefits, costs and risks of an open banking designation	
11.	Do you agree with our assessment of how the designation will affect the interests of customers (other than in relation to security, privacy and confidentiality of customer data)? Is anything missing? For businesses: What specific applications and benefits are you aware of that are likely to be enabled by the designation? What is the likely scale of these benefits, and over what timeframe will they occur?
12.	Do you agree with our assessment of the costs and benefits to banks from designation under the Bill (other than those relating to security, privacy or confidentiality)? Is anything missing? For banks: Would you be able to quantify the potential additional costs to your organisation associated with designation under the Bill? i.e. that would not be borne under the Minimum open banking Implementation Plan.
13.	Do you agree that the designation will promote the implementation of secure, standardised, and efficient regulated data services?
14.	Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity of customer data and product data?
15.	Are there any risks from the designation to intellectual property rights in relation to customer data or product data?

Accreditation criteria – what specific criteria should business need to meet before they can become accredited to make requests on behalf of consumers?

16.	Do you have any insights into how many businesses would wish to seek accreditation, as opposed to using an accredited intermediary to request banking data? For businesses: How likely are you to seek accreditation? What would make you more or less likely to apply?
	<ul style="list-style-type: none"> ● In all markets PocketSmith operates, we have not been required to become directly accredited. ● Under both PSD2 in UK/EU and CDR in Australia, we are able to leverage the accreditation/license of an intermediary who in turn becomes responsible for our participation in these regimes. ● We would likely seek accreditation so long as it was cost and time efficient. ● However, using an accredited intermediary would be our preference, if such a system was permissible. ● Regardless, we would likely access data via an intermediary for technical reasons. The Bill should allow for us to do so with our own accreditation, or if permissible, the intermediary's accreditation.
17.	Do you agree that directors and senior managers of accredited requestors should be subject to a fit and proper person test? Do you have any comments on the advantages or disadvantages of this test, or other options?
18.	Do you agree that requestors whose directors and senior managers have already met the 'fit and proper' licensing or certification test by the Reserve Bank, Financial Markets Authority or Commerce Commission should be deemed to meet this requirement without further assessment?
19.	Do you consider that, in the absence of insurance or guarantee requirements, there is a significant risk of banks or customers not being fully compensated for any loss that might reasonably be expected to arise from an accredited requestor breaching its obligations?
	The risk of monetary loss exists solely for payment initiation use cases. Our view is that for read-only cases such as accessing transaction data, any insurance or guarantee requirements shouldn't be in scope. Of course, information security requirements should be in place to protect that read-only data.

20.	Do you have any comments on the availability and cost of professional indemnity insurance and/or cyber insurance, and how this may impact on the ability of prospective requestors to participate in this regime?
	<p>Our understanding is that such insurance is hard to get in NZ, and is not directly related to the risks associated with read-only data delivered under the CDR. We believe that high premiums or stringent insurance requirements will deter entities from participating in the open banking ecosystem.</p> <p>Our preference is for a standardised, fit-for-purpose, and perhaps tiered approach towards insurance designed for data recipients. There might be a need for support mechanisms, such as government-backed insurance options or subsidies, to help reduce the cost burden for smaller players.</p>
21.	Do you agree that a principles-based approach similar to the Australian CDR rules is an appropriate insurance measure?
22.	Do you agree that accredited requestors in open banking should be required to be a member of a financial services disputes resolution scheme?
	Not if the requestor is only accessing read-only data.
23.	Do you consider that information security requirements should form part of accreditation?
	<p>It's important that consumers trust the accredited requestor they're using, and we welcome requirements on information security, certainly for accredited requestors themselves.</p> <p>It could be worth considering a more lightweight approach when an intermediary is being used to request data.</p>
24.	Do you have any comments on the level of prescription or specific requirements that should apply to information security? For businesses: What information security standards and certifications are available to firms in New Zealand, and what is the approximate cost of obtaining them?
	<p>The certifications allowable under Australia's CDR are fair and robust for accredited requestors.</p> <p>If an intermediary was being used, it could be worth considering a more lightweight approach. For example, establishing that the core tenets of infosec are in place such as data encryption, network security and access controls without requiring the</p>

	burden of being formally compliant with a standard like ISO 27001, which will hinder participation and innovation in the sector.
25.	Do you agree that additional criteria of accreditation be the applicant demonstrate compliance with its policies around customer data, product data and action initiation and with the Act?
26.	Do you consider any additional accreditation criteria are necessary?
Fees – what restrictions should there be on fees for providing customer data or initiating payments?	
27.	What would be the impact of requests under the Bill being free, for banking?
	<p>Free requests will open the doors to innovation from the get-go. The cost of data feeds is prohibitively expensive for fintechs, and is often the reason many go out of business. Consumers expect to be able to work with their financial data at little to no additional cost because the banks already offer their apps for “free” - therefore subscription-based products such as PocketSmith have to offer very high value for money.</p> <p>We understand the arguments around subsidising operational costs to banks, along with with incentives to invest in high-quality APIs. To this, we would again posit that:</p> <ul style="list-style-type: none"> ● Open banking APIs should be also the banks’ own APIs. What is good for the goose should be good for the gander. ● NZ banks’ significant profits should be taken into account. As noted by the Commerce Commission, there are significant concerns about the lack of competition in our banking sector, with our market being a “two-tier oligopoly”. ● To quote Comcom Chair John Small: “ongoing disruption needs to be baked in” to address the lack of obvious and aggressive competition for the major banks that means Kiwi consumers are missing out.

28.	If requests under the Bill were not free, what limits or restrictions should be placed on charging fees? Do you have any comments on the costs and benefits of the various options?
The detailed rules for open banking	
29.	Do you agree with the proposals to ensure that consents given to accredited requestors are sufficiently informed? Are there any other obligations that should apply to ensure that consents are express and informed?
30.	Should customers be able to opt out of specific uses of their data that are not necessary to provide the service? Do you have any comments on the advantages and disadvantages of this?
31.	Should customers have the ability to set an expiry on ongoing consents? Do you have any comments on the advantages and disadvantages of this?
	<p>Yes they should have the ability to choose to have ongoing consent, or one that expires.</p> <p>It is generally considered best practice, and it empowers consumers by giving them greater control over their financial data and aligns with the principles of transparency and trust.</p> <p>It is important that the customer understands the consent flow and what the options mean when they connect their data to third parties.</p>
32.	Do you agree with the proposals in this paper to help ensure that consents given to accredited requestors acting as intermediaries are sufficiently informed? Are there any other obligations that should apply to ensure that consents given to intermediaries are express and informed?

	Yes we do. It would also be important to consider whether or not consumers can consent to their data being included in a pool for resale, anonymised or not.
33.	Do you agree with the proposals to ensure that payment authorisations given to accredited requestors are sufficiently informed? Are there any other obligations that should apply to ensure that payment consents are express and informed? Should there be any other limitations on merchants or other unaccredited persons collecting authorisations, or instructing payments?
34.	Do you agree with the proposals in this paper for customer dashboards for viewing or withdrawing consent?
	Yes we do. In addition to this, the dashboard could include information about when data was delivered and to whom, and whether or not it was reliably delivered.
Joint customers	
35.	Should there be any exceptions to joint customers being able to access account information, other than those provided by clause 16 of the Bill? What would the practical impact of additional exceptions be on the operation of open banking?
	No - we believe that the proposed clauses under the "equivalency principle" are sound.
36.	Are regulations needed to deal with joint customers making payments, or are the default provisions of the Bill sufficient? What would the practical impact of the default provisions of the Bill on the operation of open banking?
Secondary users	

37.	Are there any issues with designating authorised signatories on a customer’s account as secondary users? What else should regulations provide for secondary users?
Payment limits	
38.	How should payment limits be set?
Remediation of unauthorised payment	
39.	Do you agree that accredited requestors should remediate banks for unauthorised payments that they request? Are there any other steps that should be required to be taken where unauthorised payments occur?
Content of the register and on-boarding of accredited requestors	
40.	What functionality should the register have? Is certain functionality critical on commencement of the designation, or could functionality be added later?
41.	What additional information needs to be held by the register to support this functionality? Should this information be publicly available, or only available to participants?

42.	Is it necessary for regulations to include express obligations relating to on-boarding of accredited requestors? If so, what should these obligations be?
Content of policies relating to customer data and action initiation	
43.	Do you agree with the proposed content of accredited requestor customer data policies? Is there anything else that should be required to be included?
	Yes we do.
Standards for open banking	
44.	Do you agree with the proposed standards? Should any additional standards be prescribed?
45.	When should version 3.0 of the API Centre standards become mandatory?

46.	If product data were included in the designation, what standards should be adopted or developed for product data?
47.	Do you have any comments on performance standards that should apply?
48.	How can MBIE most effectively monitor performance?
	<p>An approach similar to the ACCC's in Australia would be welcome, and the idea of implementing an API that data recipients can use to submit reports would be excellent.</p> <p>We would add to this that our response to Question 3 highlights the importance of making this information transparent and accessible to all.</p> <p>We would encourage monitoring and public reporting in at least these areas:</p> <ul style="list-style-type: none"> ● Uptime and reliability, often measured as a percentage of uptime, to track unplanned outages and service interruptions. ● Data accuracy and integrity, including discrepancies in account balances, transaction details, or any other financial data. ● Error rates, in particular the number of connection failures. ● Response time and latency - how long it takes for the API to respond to requests. ● The rate at which consumers raise issues with the data holder's service, and how promptly and effectively those issues are resolved. <p>The ability for data recipients to retrieve a current performance report from MBIE via the API for display in their own products would help preserve a transparent open banking system in NZ and encourage all to create better outcomes for consumers.</p>

49.	Are existing institutional arrangements with the API Centre fit for purpose, to achieve desired outcomes? If not, what changes should be considered? How should the approach change over time as other sectors are designated?
General Comments:	

Thank you

We appreciate you sharing your thoughts with us. Please find all instructions for how to return this form to us on the first page.