

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> <p>Implementation barriers have been well recognised by the Consumer Policy team. Participating banks have focussed on enabling new services which benefit (and therefore contribute to the retention of) their customers.</p> <p>Open Banking will inevitably foster innovation, but success is dependent on a robust foundation. We believe such a foundation is best formed on the back of existing use-cases which have prevailed despite technological barriers. We caution against seeking to establish the regime alongside new service providers with experimental use-cases, which is more likely in the absence of intervention by designation.</p>
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> <p>illion Open Data Solutions operate across Australia and New Zealand, we use Screen Scraping, Optical Character Recognition of PDF bank statements and in Australia the Consumer Data Right to access bank transaction data.</p> <p>illion agrees with the problem definition as it relates to the intentions conveyed in the Ministerial Foreword. As the largest bank data aggregator operating in New Zealand, we emphasise that while motivations for banks and third parties continue to be misaligned, the substitution of screen scraping solutions remains unlikely.</p> <p>We do not agree that Screen Scraping is inherently insecure, we have operated our services for over 10 years and enabled millions of Australians and New Zealanders to use their bank transaction data to access financial products with zero security incidents over that period. Consequently, our view is that Screen Scraping operates securely albeit that there are no guarantees.</p> <p>Our experience in Australia has been that Consumer Data Right or Open Banking provides a significantly more reliable mechanism to access the Bank Transaction data than Screen Scraping and can be designed to provide the consumer with a process that is easier to navigate than providing their bank credentials.</p> <p>As such illion are strong supporters of Open Banking in New Zealand, however we point to some lessons to be learned from the Australian experience, namely:</p> <ol style="list-style-type: none">1. For an Open Banking regime to be successful, at least in the credit lending use cases that illion Bank Statements mainly serves, it needs to provide access to a critical mass of the data required in a credit assessment. In Australia the current absence of non-bank lenders (including a number of large credit card providers, BNPL, auto finance and small loan providers)

	<p>means that Screen Scraping remains the only mechanism to access all relevant data.</p> <ol style="list-style-type: none"> 2. It is critical that barriers to access the CDR data are minimised. In Australia the regulatory barriers for Lenders to access CDR data (even where the lender is an ADI and is providing access to their own customers transaction data) are such that there has been minimal market adoption of CDR for the Credit Lending use case. 3. It is critical that the consumer experience is central to the solution. The best way to enable the market to develop solutions that meet the need of the consumers is to create a framework that allows providers of solutions the freedom to develop the best solution and experience for their customers. In Australia a highly prescriptive approach was taken to the user interface design that leaves minimal room for innovation in terms of the customer experience, creates a high compliance cost (as the data standards have to be adhered to) and creates a barrier to improving and changing those standards. We hope that New Zealand learns from this experience, focuses on defining how the data should be accessed and defines a minimal, sensible set of rules around any user design elements providing a framework that allows the market to innovate.
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>
	<p>Given our area of expertise our comments are limited to the data sharing aspect: We believe that however objectives are defined, success should be evidenced by -</p> <ol style="list-style-type: none"> 1. The complete, voluntary replacement of screen scraping as a mechanism for sharing of bank data. 2. A substantial increase in the number of consumers who participate in the sharing of their bank data. <p>To achieve this, the following are requisites -</p> <ul style="list-style-type: none"> • Technological feasibility (comparable data availability and accessibility) • Commercial viability (for technology providers including banks and third parties) • Government endorsement (to promote consumer trust and remove ambiguity for participants).
4.	<p>Do you have any comments on the criteria that should be used to assess designation options?</p>
	<p>illion considers the proposed criteria to be reasonable.</p>
<p>The Scope of an open banking designation</p>	

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?
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6.	Do you have any views on the costs and benefits of designating a wider range of deposit takers, beyond the five largest banks?
	<p>Broad participation is crucial to truly facilitate competition. As stated in the response to question 2, until there is a critical mass of data providers in the Open Banking regime there will always be a need for Screen Scraping to augment the data available via Open Banking. The danger in this approach is that Open Banking will continue to compete with Screen Scraping and unless it can offer businesses a demonstrably better outcome there will be no incentive for businesses to adopt Open Banking, as is the current situation in Australia.</p> <p>This situation can be avoided if the barriers to access Open Banking data are minimal, allowing the solution to compete on a level playing field with Screen Scraping avoiding a significant compliance burden being introduced to the recipients of the data.</p>
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?
	<p>illion is supportive of this notion. Facilitation of direct requests was found to come at a great incremental cost to banks in Australia and the concept is yet to be successfully proven. We believe it should be permitted, but voluntary at this stage.</p>
8.	Do you have any comments on the customer data to be designated?
	<p>Current inquiries in Australia are seeking to lessen costs imposed on data holders. It has been raised that it is particularly costly to make 7 years of transaction data readily available. We offer our opinion that all use cases known to us are satisfied by 24 months of data, and in most cases 12 months or less.</p>
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?
	<p>illion does not use product data in Australia and are aware of very few who do.</p>
10.	Do you have any comments on designating payments under the Bill? Should other actions be designated? If so, when?

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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?
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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.
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13.	Do you agree that the designation will promote the implementation of secure, standardised, and efficient regulated data services?
	Yes. It will also reduce speed to market. Third parties are currently at a substantial disadvantage and lack any negotiating power. They are entirely at the mercy of the banks' discretion and timing.
14.	Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity of customer data and product data?
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15.	Are there any risks from the designation to intellectual property rights in relation to customer data or product data?
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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?
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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?
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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?
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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?
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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?
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21.	Do you agree that a principles-based approach similar to the Australian CDR rules is an appropriate insurance measure?

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22.	Do you agree that accredited requestors in open banking should be required to be a member of a financial services disputes resolution scheme?
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23.	Do you consider that information security requirements should form part of accreditation?
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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?
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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?
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26.	Do you consider any additional accreditation criteria are necessary?
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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>As per previous comments, Open Banking will compete with Screen Scraping. For Open Banking to succeed it needs to provide a better alternative. In Australia access via CDR is free, but the compliance burden is very high, consequently there has been very little uptake of CDR as Screen Scraping provides a more viable alternative with increased coverage at a far lower price point.</p> <p>Introducing a fee to access Open Banking data introduces a barrier, reducing the likelihood of adoption where Screen Scraping can continue to provide a good, cheaper, alternative.</p>
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?
	<p>Pricing is complicated and illion has already seen commercial disincentives emerging from some banks proposals. illion does not necessarily object to fees being charged but wishes to ensure that related discussions/negotiations do not take precedence over implementation. We feel strongly that fees must be fair and standardised, and therefore overseen through regulation.</p>
<p>The detailed rules for open banking</p>	
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?
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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?
	<p>illion believes in the responsible and transparent management of data. We are also acutely aware that data use consent is an area where, despite noble intentions, regulation may bring significant unintended consequences. A common misconception in Australia is that mandated security measures impose the greatest</p>

	<p>implementation barrier. Alternately, our experience indicates it is the system restructuring required to comply with complex system architecture and data management obligations.</p> <p>Differentiating secondary use cases necessitates controls to manage variance in use consents or the revocation of use consents. It poses challenges where datasets are mingled or contain derived data and consent revocation triggers deletion obligations.</p> <p>We challenge whether there is a present need to reform current data usage practices in New Zealand. Unless deemed as such, we again urge regulators to focus on the core objectives rather than target a perceived, utopian state.</p> <p>If further intervention is deemed necessary, illion would support standards which allow consumers to exclude proposed use cases which carry greater privacy implications (such as direct marketing) as opposed to those which are common practice (such as the use of de-identified data for service improvement).</p>
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?
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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?
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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?
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34.	Do you agree with the proposals in this paper for customer dashboards for viewing or withdrawing consent?

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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?
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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?
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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?
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Payment limits	
38.	How should payment limits be set?

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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?
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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?
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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?
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42.	Is it necessary for regulations to include express obligations relating to on-boarding of accredited requestors? If so, what should these obligations be?
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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?
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Standards for open banking

44.	Do you agree with the proposed standards? Should any additional standards be prescribed?
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45.	When should version 3.0 of the API Centre standards become mandatory?
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46.	If product data were included in the designation, what standards should be adopted or developed for product data?
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47.	Do you have any comments on performance standards that should apply?

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48.	How can MBIE most effectively monitor performance?
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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?
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General Comments:

Once again, illion wishes to commend the MBIE Consumer Policy team for their market engagement, holistic considerations and pragmatic approach. illion believes the intention conveyed throughout the consultation has been positive, illion is excited to support the roll out of open banking in New Zealand.

As general feedback, illion wishes to support the notion to add to and adjust the rules through standards as opposed to up-front regulation, as and when deemed necessary. Whilst the thorough assessment is both noble and necessary, the focus must remain on the primary objective which is the secure access and sharing of data. We strongly feel that this objective can be achieved, and huge improvement made to the existing state of data sharing with implementation of basic rules. We also wish to avoid unintended consequences which inhibit adoption by being too prescriptive.

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.