

bud

Open Finance

A draft response to the FCA call for input

Call for Input: **Open Finance**

Draft Response

Part 1: **Executive summary**

Bud was founded on the principle that people's data has value and that the primary beneficiary of that value can, and should always be, the people who created it. Across the world, the progress of open data movements is lending weight to that argument and nowhere is that progress more evident than here in the UK where Open Banking is continuing to show encouraging signs of mass adoption.

Where Open Banking, with all of its limitations, has demonstrated customer appetite, Open Finance has the potential to go much further and create an environment in which innovative companies can create a new generation of services.

There are well defined problem sets within the UK where Open Finance should be seen as a potential enabler of remedies - and it is in the context of this that we believe Open Finance should be framed for the future. It should be unapologetically customer-first, outcome-centric and rolled out where it can solve real problems. For example:

- The Loyalty Penalty¹ - where Open Finance can increase providers' ability to prompt and facilitate switching
- The Poverty Premium² - where Open Finance can increase transparency and reduce premium prices paid due to low data-availability
- The Advice Gap³ - where Open Finance can facilitate the creation of new services that bring people together with appropriate financial advice

In each of the above cases, the potential for Open Finance to act as a remedy lies in one of three macro-factors.

- Improving financial outcomes by making automated advice (or the provision of guidance if "Advice" is too loaded a term), more personal and relevant
- Driving the cost of living down by increasing competition in the sector
- Improving access to the financial system by increasing transparency around people's finances

¹ <https://www.gov.uk/government/news/cma-tackles-loyalty-penalty-charges>

² <https://www.opendemocracy.net/en/oureconomy/why-its-time-abolish-poverty-premium/>

³

<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/debt-and-money-policy-research/the-four-advice-gaps/>

In all three of the above, Open Banking has proven the need for a set of core components in order to deliver market improvements. The legal mandate, the standardised APIs and a rollout sensitive to the industry's capacity to deliver, have been key to the development of Open Banking and it is reasonable to expect that these will be needed too for any successful implementation of Open Finance.

A legal mandate and a centralised organising body:

We believe that, without a legal mandate and a body to deliver it, Open Banking would never have achieved even its current level of success. It is the legal mandate and the accompanying surety of delivery that allowed companies to invest in building propositions, its regulatory framework built trust in the system and its system of penalties provided an incentive for large institutions to deliver APIs to market. These three remain true for Open Finance.

Standardised, API driven data and processes:

It is absolutely fundamental, from a third-party perspective, that Open Finance delivers standardised APIs. The alternative is either screen scraping (with users handing login credentials to third parties and all of the security concerns that go with it), or one-institution-one-integration APIs which represents such a high barrier to entry that the development of customer propositions is simply not viable for the vast majority of companies. Standardised APIs will lead to more innovation and better propositions, giving people more incentive to use the resulting products and maximising the likelihood that the policy will meet its aims. Standardised processes are more familiar to the 1m+ people who are already using Open Banking and will result in similarly improved uptake.

A sympathetic rollout:

The roll-out plan should balance the industry's capacity to deliver against the consumer harm currently taking place, and look for the best value way of delivering remedies. Incumbent providers with the largest market share should be considered for the first wave and, where learnings can be taken from Open Banking, they should be applied. From the perspective of a central body - a significant proportion of the sunk-costs from the roll out of Open Banking went into development of reusable assets (e.g. the directory, API monitoring infrastructure etc...) these should be repurposed.

The following answers to the questions posed by the call for input document should read in the context of the above summary.

Part 2: **Detailed responses**

Q1: What action can we take to help ensure the potential of open banking is maximised, for instance to support the development of new open banking services?

The essential question that remains unanswered around Open Banking is around the definition of “parity” in the context of PSD2 and its implementation via the PSRs. If, as we contend, a consensus can be built that frames a definition of parity in terms of the end-user experience, then many of the remaining contentious elements can be resolved.

90 day re-authentication is a good example. There is no other service in the world that requires an active user to repeatedly give consent in order to continue using it. Banks do not require this from their customers in any other circumstances - there is clearly no parity.

The ongoing contention around the mandatory status of variable recurring payments (VRP) is caused by the same lack of clarity. If “parity” means that the user can do the same things via third parties (with the same levels of friction,) then the comparison should be drawn between VRP and the ability to grant digital consent for a direct debit.

Q2: We are interested in your views on what open banking teaches us about the potential development of open finance.

The last 2 years have demonstrated that data portability and interoperability are key to driving innovation in the financial sector. The increase in uptake quarter on quarter is proof that there are real problems that can be solved for people and that, as more innovative solutions come to market, the initial reticence regarding data sharing can be overcome.

It also demonstrates that users have a very high bar when it comes to friction and UX. As Bank APIs became more available and reliable, and UX guidelines streamlined the connection process, user uptake of the services began to increase far more rapidly. This should not be overlooked when scoping out principles and specifications for any Open Finance Regime. For an Open Finance regime to effectively increase competition, the API standards need to provide for a reduction in overall friction within the ecosystem, and not simply broaden users’ choice.

Finally Open Banking demonstrates the dangers of ambiguity in early / framing documents. There isn’t a single document which outlines the principles / aims and order of primacy for the framing documents and this has led to confusion at times. Open Finance should be clearly framed around a documented set of principal goals. These should be illustrated by a comprehensive set of the use cases that Open Finance is designed to facilitate, which in turn should be informed by the intended methodology for the facilitation.

Q3. Do you agree with our definition of Open Finance?

Whilst section 3 of the call for input paper provides some indication around the potential direction of a future Open Finance regime, it stops short of offering an actual definition. There is little to disagree with, however it would be more helpful if it was less ambiguous.

Specifically:

Section 3.5 should either offer presumptive universal coverage including a list of exemptions or an assumption of no coverage and a list of cases in which both read and write access would be granted.

The presumption in section 3.6 is also unhelpful. Screen scraping is inherently insecure, it risks undermining trust in the system and should not be part of any planning process.

At the point of defining what we mean by Open Finance we should be considering how to lay out a series of guiding principles that can be used to interpret ambiguity in any resulting data standards and / or regulatory work.

The principles should define its structure, (we strongly advocate for an API-only approach), and its goals.

Q5. What can we do to maximise these benefits (given the considerations set out in paragraphs 3.12 to 3.17)?

Making identity information more portable is fundamental to allowing the development of a flourishing ecosystem. It is the key to reducing friction for users switching between products and, by returning control over basic personal information to the originator, it closely aligns with the goals of the GDPR.

The table in section 3.12 represents a good spectrum of data points that, if made available would, allow for a wide variety of use cases however, it does not mention information relating to identity in any sector other than insurance. In each of the market's described, companies will have conducted KYC checks on their customers and it is an important omission. The personal information held on an individual by a company should be seen as the most basic data points covered by Open Finance and should be scoped in from the outset.

Q6. Is there a natural sequence by which open finance would or should develop by sector?

It would be inviting delay to stipulate an order in which sectors should roll out Open Finance APIs. The Pensions Dashboard project was first mentioned in the year 2000 and 20 years on, the best estimates are that there will be a functioning dashboard in 2024 with a potential extension until 2028. If we wait that long for an Open Finance regime we will sacrifice the pro-competition gains made through Open Banking.

We recognise, however, that this process represents some significant technical challenges for FS providers. This could be alleviated by staging the roll-out of functionality and coverage. The key consideration when deciding on any staged roll out should be about the levels of consumer harm inherent in the current market structure and the viability of the system to address these. Solving one problem end-to-end helps people more than half-solving many.

Q7. Do you agree with our assessment of the potential risks arising from Open Finance? Are there others?

Section 4.2 - 4.4 of the document lays out a comprehensive assessment of the risks associated with Open Finance. It is important that these are addressed at the outset and many of the comments we make in this response are designed to do this.

The document does not recognise the risks that, in the absence of Open Finance people will continue to pursue equivalent experiences through other means. This would lead to more use of scrapers, more data proliferation amongst unregulated entities and more risk of consumer harm.

Q8. Do you consider that the current regulatory framework would be adequate to capture these risks?

The current regulatory framework is designed to protect consumers interacting with financial services providers and Open Finance does not fundamentally affect the adequacy of that protection. Access to financial data through Open Finance should, of course, be a regulated activity in the same way that Open Banking is but the existing AISP / PISP framework is directly applicable.

The key is that there is clarity within the industry re: when regulatory frameworks apply and to whom. Startups and tech companies recognise that regulatory compliance is part of delivering financial services and, as long as they have clarity, this should not act as a deterrent.

Q9. What barriers do established firms face in providing access to customer data, and what barriers do TPPs face in accessing that data today?

It is important to be clear that Open Finance is not a new thing. Screen scrapers (essentially acting as TPPs in this case,) are well established companies and financial aggregation products have existed for decades. Scraping is, however, expensive to maintain, it has reliability issues and most importantly, it introduces security concerns by requiring users to hand login credentials to a third party. These are all significant barriers to entry for new companies that are trying to build services using financial data.

Q10. Do you think the right incentives exist for Open Finance, or would FCA rules, or any other changes be required.

There is nothing in the “call for input” document that describes viable incentives for an established FS provider to invest in externally accessible APIs if they are not already in the company’s roadmap.

The GDPR lays down an important principle in data portability as referenced in section 5.6 but the existence of Open Banking is proof that, of itself, it is not a strong enough incentive. Open Banking also sets out a consensus on how access that data needs to be governed if it is to return value to the data subject (e.g. both real time and third party access at the request of the data subject were deemed necessary to address a lack of competition).

We can see no way in which a flourishing ecosystem can develop amongst incumbent financial product providers without a regulatory mandate, and without access to a sufficiently broad range of providers, it will be hard for TPPs to produce commercially viable solutions.

Q11. Do you have views on the feasibility of different types of firms opening up access to customer data to third parties?

There are differing levels of fragmentation between sectors but in all sectors a very small number of providers accounts for a significant majority of customers. A pragmatic approach would be to mandate the largest providers within a sector based on market share. Data standards should focus on delivering the simplest, most useful data first to ensure proportionality and we should learn from the differing approaches taken by organisations in delivering against Open Banking.

Q12. What costs would be involved in doing so? We are interested in views on the desirability and feasibility of developing APIs?

Costs will depend almost entirely on the state of the underlying technology stack though it should be noted that any company providing its customers with a logged-in web portal has already developed some form of API in order to service that property.

We have stated elsewhere in this response the fundamental importance of APIs vs the alternatives. Screen-scraping builds inherent security risks into the system and damages the trust between institutions and TPPs.

We acknowledge that there is a cost involved in the development of APIs and this should be minimised wherever possible. Use of existing frameworks, for example, such as the consent and security profile work already completed for Open Banking would reduce the cost burden on industry. This would also reduce cost for TPPs wishing to integrate across multiple verticals, and data providers/ASPSPs who provide products in multiple verticals.

Q13. Do you have views on how the market may develop if some, but not all firms opened up third party access?

Without a critical mass of providers there will be little incentive for the third parties to invest in developing propositions that make use of the scheme. At the very least, in order to be viable the leading providers in a given sector would have to open up access.

At the point of its launch Open Banking was prescribed for providers with a cumulative market share of more than 80% and even with this level of coverage, there was little enthusiasm at the outset - caused in part by the perceived lack of universality.

Q14. What functions and common standards are needed to support Open Finance? How should they be delivered?

An Open Finance ecosystem would need to replicate a number of key elements from Open Banking.

- A central registry - Allows for consistent authentication flows and provides institutions with a level of trust that the third party will be a responsible actor.
- A common approach to authentication and consent - Provides a consistent journey for users across providers, building familiarity and trust in the process whilst reducing the cost for third parties to build authentication flows.
- A common API schema - Dramatically reduces the necessary investment from third parties in building products that use transactional data.
- A universally acknowledged dispute resolution service - provides parties on all sides with trust that disputes will be handled fairly.

All four of the above would be best delivered (or curated) by a central not-for-profit body (following the model of the OBIE). This model makes the best use of existing work and minimises cost to the industry, whilst ensuring that there is a single entity that provides forward momentum to the project.

Q15. What role could BEIS' Smart Data Function best play to ensure interoperability and cohesion?

No response offered

Q16. To what extent should the standards and infrastructure developed by the OBIE be leveraged to support Open Finance

Whilst some API standards will need to be adapted, it seems reasonable to reuse as much as possible from Open Banking within Open Finance. Where the goals of Open Finance are to deliver as much consumer benefit as possible whilst demanding a reasonable investment from industry players, it is hard to envisage a solution that does not reuse a significantly pre-built infrastructure.

Q17. Do you agree that GDPR alone may not provide a sufficient legal framework for the development of Open Finance

GDPR provides a useful legal principle but does not provide a legal basis for Open Finance. Whilst access to data in machine readable format is provided for in the legislation, a reasonable time frame for the response is not. Open Banking targets 300 millisecond response times. GDPR only provides for 30 days.

Q18. If so, what other rights and protections are needed? Is the Open Banking framework the right starting point?

See response to Q17.

Q19. What are the specific ethical issues we need to consider as part of Open Finance?

Whilst we wouldn't want to comment on the specifics of an ethical framework for Open Finance, we believe that an ethical focus should be considered a fundamental element of any underlying principles for Open Finance. We have asserted earlier in this document that we believe Open Finance requires an outcomes-based approach and that the outcomes in question should be focussed on providing remedies for consumer harms. We've outlined where we believe these to be most acute and where we believe Open Finance can provide an effective remedy. This should be the guiding principle behind the ethics of Open Finance.

The call for input highlighted the use of AI / machine learning on consumers' data and we agree that there are potential issues that should be addressed.

- The CMA's work with the turing institute should be published alongside a best practice guide specifically relating to avoiding bias in AI trained on financial data. It is worth noting that there are no incentives for TPPs to consciously introduce bias into AI models, the opposite is true, and we would thus expect take up of any published best practice guide to be high.
- The use of personal data to train AI models presents potential privacy issues and we would expect TPPs to go to reasonable lengths to ensure that any data used in this way has been sufficiently anonymised. The UKAN anonymisation decision making framework would be a good standard for TPPs to adopt.

Q20. Do you have views on whether the draft principles for Open Finance will achieve our aim of an effective ecosystem?

The draft principles represent a positive approach to Open Finance but will require both amending and additions if they are to deliver an effective ecosystem.

Suggested amendments:

Principle	Amendment	Rationale
1. Users right to share data	Change “real time” to “an appropriate time frame”	For current accounts, credit & charge cards real time is the only appropriate timescale. However, for longer term assets such as pensions, there is no need to enforce real-time data and doing so risks extending the delay before any data is available. Better to have appropriate data soon than real-time data later.
2. User right to instruct a TPP to act on their behalf	Change “perform equivalent actions” to “deliver equivalent experiences”	“Perform equivalent action” is process-based, “Deliver equivalent experience” is outcome-based. The Parity should be based on what the user experiences, not what the provider enables.
3. User right to be in control of their data and transact and share data securely	Remove the final bullet point (re: periodic renewal of consent). Replace with “Consent/access for dormant users should be actively revisited periodically to check the consumer continues to agree to their data being used.	Whilst we recognise the importance of ensuring that consumers don’t grant perpetual consent for TPPs to access their data, forcing users to re-consent over a fixed period is problematic for a number of reasons. - It is a uniquely blunt tool that is not replicated in any other context anywhere in the world. - It is anti-competitive, where a user aggregates one bank account inside another bank’s app the aggregated account requires re-consent whilst the primary account doesn’t. - It does not take into account the different frequency of use for different financial products.
6. TPP right of access	Amend the final bullet point to “Unless prevented from doing so by regulation, firms	We believe that Open Finance should be regulated and the regulation should aim for delivery of free

	or API schemes may offer commercial access within parameters set by the central organising body”	<p>access. However, it is more important that the API channel offered by providers is comprehensive and performant than it is that the API channel is free.</p> <p>Early development will be stifled if prices are set at unreasonably high levels and large differences between providers will make forward planning difficult. For this reason it would make sense to allow the central body, (with representatives from both supply and demand sides of the market) set parameters within which access pricing can vary for any API scheme.</p>
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Suggested additional principles:

Principle	Text	Rationale
1. A Sensitive Mandate	The FCA will introduce regulation to mandate provision of customer data to TPPs in such a way that maximises benefits and minimises the cost to industry	A regulatory mandate is the only way of ensuring sufficient coverage amongst providers to make the development of third party propositions viable.
2. A trusted membership scheme	TPPs wishing to access the scheme must be suitably regulated and have demonstrated good practice for data security / user privacy.	<p>Displaying (dashboarding) financial information back to a user is already a regulated activity (AISP), as is a basic form of “write” access (PISP). FS providers need to have trust that third parties, particularly those with write access are responsible actors and will use that write access in the best interest of customers.</p> <p>The only way to ensure that this happens is if TPPs are members of a scheme where dispute management and liability are clear to both parties.</p>

Q21. How should this set of principles be developed? Do you have a view on the role the FCA should play?

The FCA should consult on the basis that it plans to regulate and place the focus for the consultation on the underlying principles behind the regulation, the extent of data schema that it deems necessary to achieve the goals of Open Finance, the phasing of the regulatory roll-out and the standards that TPPs should be held to regarding data handling, privacy and security policies.

Q22. Do you have views on whether any elements of the FCA's regulatory framework may constrain the development of Open Finance? Please provide specific examples.

No