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techUK response to the FCA's call for input: Open finance

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About techUK

techUK represents the companies and technologies that are defining today the world that we will live in tomorrow. The tech industry is creating jobs and growth across the UK. More than 850 companies are members of techUK. Collectively they employ more than 700,000 people, about half of all tech sector jobs in the UK. These companies range from leading FTSE 100 companies to new innovative start-ups. The majority of our members are small and medium sized businesses.

Introduction

The members of techUK are broadly in favour of the concepts behind open finance, as outlined in the FCA Call for Input. A customer's financial situation is much more than just transactions history, real-time account balances or loan payment history. To fulfil the promise of Open Banking, customers need to be able to securely share a wider pool of data including for example: pension, insurance, mortgages, etc. Therefore, for customers to get the most from both their data and money, there is a need to extend the scope of Open Banking.

Open Banking has made some good headway but has been slow to reach a wider market. According to the Open Banking Implementation Entity[1], 200 million monthly calls have originated from the open banking push which has seen the banks connect to 204 active and regulated TPPs. We clearly see that there is an appetite for the new and improved services unlocked through open data initiatives and techUK believes that TTPs numbers are customer use will increase over time.

In order to maximise the benefits from financial data, the UK needs a system which ensures consumer protection, guarantees system resilience and delivers interoperability. To achieve this, techUK calls for the development of an overarching strategy for data sharing over the longer term and for regulators across sectors to work with government on this very important point.

Response

Section 1: General Comments

1) Digital Economy

The members of techUK see open finance as a logical next step on from open banking and are broadly in favour of this expansion. We believe that the true benefits of open

[1] https://www.openbanking.org.uk/about-us/latest-news/open-banking-adoption-surpasses-one-million-customer-mark/

banking will only be apparent when third party providers (TPPs) are able to access and use data from a wide range of sources to create new and innovative services. Data held by the public sector and the industries considered by BEIS in the Smart Data review could form part of these sources – as, in time, could data from other sectors.

In the view of techUK members, if the UK is to create a truly digital, data-driven economy it must consider the opening up of data from many sources as the best way to create a vibrant digital economy. This would require the development of an overarching strategy for data sharing over the longer term. A joined-up strategy is much needed: techUK calls for regulators across sectors to work with government on this very important point. BEIS, the CMA, the Bank of England, the Treasury have all expressed views and ambition on this topic.

Incentives for established companies to embrace open finance would be maximised if there were a long-term vision of a digital economy in the UK. Players could then better perceive the long-term benefits and policymakers could create conditions for the commercialisation of application programming interfaces (APIs) and expansion into the international arena through standardisation.

2) <u>Governance</u>

In our view, there needs to be a top-level of commonly agreed principles which underpin data sharing, as there are a number of common issues, to do with security and the ethical use of data, which arise no matter what the sector. These general principles should govern the activities of players across the board and protect the interests of consumers. This would give clarity to consumers, generate trust and provide certainty for industry. Companies cannot be faced with multiple different regimes overseen by different sector-based regulatory bodies.

Ethical issues arise mainly around:

- Consent
- Use and re-use of data
- Use of AI and potentials for bias

These are all areas where concerted work is needed and where many considerations of economic and societal welfare come into play. In our view, wide research and consideration will have to be given to these areas, not only within open finance but concerning the sharing of data across the economy. In our view, the ethical values and principles, which govern these issues, should be determined at the highest governance level referred to above.

It is clear therefore that centralised oversight of the data ecosystem will be required at some level. We would not at all propose that one regulatory body be in charge of all aspects of this ecosystem, yet we have seen to date a fragmentation of initiatives in the 'open data' arena which is deeply concerning to our members. The current system of collaboration among government and regulators does not appear to be adequate.

We believe that a tiered level of oversight will be required to ensure the success of open banking, open finance, smart data – and any other initiative towards 'open data', which may come in the future. At the apex should be a body which devises and oversees the aims, high-level principles and forward planning of the UK's data strategy. Such a governance body should be independent, transparent and representative, involving stakeholders from across different market sectors as well as government and market sector regulators.

Underneath this body, different sectors will require specific sector-based rules and a body to devise and enforce these – as exists at present. The Smart Data Function suggested by BEIS could be one of these bodies with specific remit for the regulated industries named in the Smart Data Review. All these bodies must however operate according to the principles devised by the top-tier governance body.

3) Digital Identity

The Call for Input mentions digital identity but in our view, the development of a digital identity market, which allows consumers to access all their online financial data, and to apply for new products, must be an essential component in any plan for open finance and for a digital economy as a whole. Many citizens are excluded from using financial and other services due to difficulties in proving their identity and a robust mechanism, which allows the use of multiple data sources to establish identity online, is urgently required to boost financial inclusion in the UK. Financial inclusion must be considered from the outset to make sure open finance delivers benefits for all and does not increase the existing gap.

4) Consumer take-up

Open finance will only achieve benefits if it is taken-up by consumers. There is at present very little understanding among consumers of the benefits of data sharing and the methods by which they can control the use of their data. Indeed, the extent to which consumers or SMEs can be expected to monitor/control the use of their data is limited. Three key developments therefore are needed:

- a 'transparency by design' principle, which allows consumers to understand where their data is going and to what uses it is being put;
- a concerted communication effort by Government, regulators and the industry to help users recognise the benefits of open data;
- Government support for the development of consent management tools and/or trusted intermediaries to assist consumers in managing their data.

Section 2: Comments on specific questions

Qs 1-2: 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? We are interested in your views on what open banking teaches us about the potential development of open finance.

As the FCA points out, the new services developed from open banking have almost all been account information services and the consumer side of the market has seen less activity than the SME side. Generally, we see the development of open banking as being slower than optimum.

For the majority of consumers, the additional services offered through open banking do not significantly improve what they get from their existing bank. The incumbent banks now offer the same services as the TPPs, so there is little incentive for consumers to use a TPP. Trust of new, unknown brands is still a problem in bringing new offerings to the wider market – this, coupled with consumer inertia, has slowed the take-up of new services. The inclusion of credit card data has been slow; no alternative payment services have emerged – payment cards are still the best service in terms of ease of use (contactless) and consumer protection (section 75 Consumer Credit Act). Finally, the incumbent banks now offer the same services as the TPPs which results in limited incentives to use a TPP.

In our view, it will be the extension of open banking to open finance which will really make the difference: these sets of data combined, will greatly increase the scope of services which TPPs could offer consumers in a secure way through APIs. Only then will there be sufficient additional benefits to significant numbers of consumers and businesses for them to use the TPP services. The potential for benefit for the average citizen of more competition in the mortgage, insurance, savings and loans and pensions markets are huge. Many people find these products very difficult to understand, to assess and to compare. If TPPs could help to simplify the choices, prompt consumers to change providers and offer options tailored to their financial situation, huge benefits could be realised and new markets opened up.

Use cases which provide clear additional value would need to be developed for consumers to take to open finance offerings in substantial numbers. Creative ways to help consumers understand and appreciate the value of both open banking and open finance are required.

Open banking was a unique initiative that required commitment from incumbent organisations and large investment to allow safe and secure data sharing. Implementation of such a project requires industry level coordination and strong direction from government/regulators. Open Banking would not have reached the 1 million-user milestone in 2019 had it not been initiated through mandatory regulation. Despite large investments and standardisation, there is still a significant level of fragmentation and more standardisation of APIs is much needed.

Open banking, as pointed out by the FCA, has been a great incubator of new ideas, products and services that were not initially envisaged and which bring great value to individuals (e.g. financial inclusion and legal aid and welfare support advice). Open finance should therefore be implemented with an open mind to which services may come to light.

Action can be taken to improve the take-up of new services:

- Trustmark – help the consumer and SME know their money will be safe if they use the service by developing a Trustmark.
- Improve procedure for redress: a specific independent service should be provided to which users can apply if something goes wrong. This should be widely communicated; providers should refer customers to this service and processes should be easy and swift.
- A strong, independent and collaborative governance structure, which involves players from across industry, charity and consumer bodies.

- Consider inclusion and ethics from the outset.
- Build a healthy ecosystem with incentives for all participants to contribute.

Q3: Do you agree with our definition of open finance?

While the definition of 'open finance' used does encapsulate the concept well, the use of the term 'owned' is confusing, as there is no clear legal 'ownership' of data. A number of people may have the right to use any data at any one time and there are also numerous ways in which data can be presented or combined.

The definition also uses the word 'ethical' without any clear explanation of what this would mean in the open finance context.

techUK members also have concerns as to whether the current open banking consent model is sufficiently robust to deal with the use and then onward reuse of data by multiple parties: consideration should be given to developing a more complex and refined consent model.

We encourage the FCA on this point, as well as the point made above and below on smart data, to look at other initiatives across the globe, including the Consumer Data Right in Australia.

Qs 4-5: Do you agree with our assessment of the potential benefits of open finance? Are there others? What can we do to maximise these benefits?

techUK considers that the potential for benefit from open finance is great. Opening up data from other markets (insurance, pensions, etc.) will create synergies and benefit consumers. As we've seen with open banking, both implementation and uptake can take time. Better engagement and communications with users could help maximise the benefits of open finance. Trust and industry buy-in would be fundamental to its success.

- Consumer credit: many UK consumers hold significant amounts of debt on credit cards, which carry rates of interest much higher than a standard loan. Making access to credit through loans more available to consumers could alleviate much of this problem.
- Pensions: the pensions dashboard will be highly useful, but, as we understand it, it will provide partial information according to the type of pension held and will not allow people to move funds. The scope for TPPs to make signing up for pensions easier, provide comparisons and simplifications, offer tailored options and so encourage citizens to start saving earlier in a planned way, is huge.
- Insurance: the standard products offered in the insurance market do not align with the needs of many consumers, especially younger people, and the costs are often high. This means many do not take out insurance, except where it is mandatory. Opening up this market to TPPs who could provide more agile, personalized products through combining data from a number of sources could greatly encourage take-up and reduce costs for consumers.
- Inclusion: as the FCA notes, financial inclusion was not initially envisaged as a benefit from open banking. In our view, inclusion should be considered from the outset of open finance design. There are many uses cases and opportunities across sectors, including pensions, social security, etc.

- Debt management: open finance can specifically help companies and individuals better manage their debt and have a better/holistic view of their financial situation. It could particularly help vulnerable consumers, and any consumer in a difficult situation (e.g. sudden changes such as losing a job).

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

We agree that the natural sequence for open finance would be to begin with savings, mortgages and credit. Yet it is in the area of pensions and insurance (see above) that most people need products which are simpler and where wider understanding and engagement would bring the greatest benefit to the majority. Investments, however, are mainly pertinent to those in the wealthiest sector of society who generally have access to good information through advisory services.

While, therefore, we agree with the 'natural sequence' identified by the FCA, priority should be given to those markets where data openness could bring the greatest benefit to the majority of consumers.

Q7: Do you agree with our assessment of the potential risks arising from open finance? Are there others?

Open data initiatives present some risks, particularly around cyber attacks, data protection and fraud. Those risks raise questions around liability and customer protection, which have not been fully addressed. Consumers need to have full transparency around how far their data is going and what it is being used for (see point on consent at Q3). A clear liability and redress framework will be required.

Linked to the question around digital ID and trust, strong guidelines would need to be developed about data theft/ID theft and how victims can take repossession of their accounts and get back into the open finance framework.

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

In the view of techUK, the current regulatory framework would have to be revised to ensure the success of open finance. In particular:

- Trust and security should be at the core of the open finance initiative; clear principles should be determined in consultation with industry.
- A strong governance structure should be put in place (see above).
- The rules on whether a firm should be regulated should be simplified and streamlined to work hand-in-hand with the current AISP regime, so that there is clarity for both the provider and the user.
- Firms should be regulated depending on the types of data they use (e.g. personal data or aggregated/anonymised) and the category of services they provide. A tiered system should be developed to ensure wide participation and stimulate the ecosystem.

- A clear and simple liability framework should be designed. Consideration should be given to a contributory insurance-backed model where 'fault' is not the primary consideration.
- Protection for the consumer should be clear and redress mechanisms provided (see section 1 above), whether this is through the ombudsman service, an enlarged FOS or another body is a matter for discussion).
- The way fees/charges are calculated and presented to consumers should be standardized to make them more easily comparable.

Q9-10: What barriers do established firms face in providing access to customer data and what barriers do TPPs face in accessing that data today?

As pointed out in the Advice from the Expert Group, open banking compelled many banks to invest in their data infrastructures and analytics. This would not have been done without the CMA order. Such investment is also greatly needed in the sectors considered under open finance. We therefore agree with the Advisory Group that open finance should be mandatory.

However, in some sectors, where there are many small providers, data is not readily available to be shared across the ecosystem; it may not even be digitised. The 'opening' of such data would require significant investment, which is a major barrier.

The open banking APIs have been implemented differently from bank to bank; TPPs are therefore faced with high cost and resource requirements. This fragmentation means also that the customer journey is different/problematic leading to high drop-out rates, which are worsened by the 90 days reauthentication rule.

Noting that one essential element of PSD2 was to allow banks to share financial data, some techUK members indicate that the key for the success of open finance is the creation of a vibrant ecosystem where all players have an incentive to take part, to invest and accept voluntarily to share data.

Q10: Do you think the right incentives exist for open finance to develop, or would FCA rules, or any other changes be necessary?

We believe that an overarching strategy needs to be developed alongside concrete use cases. Open finance will only take off if all parties including consumers can see clear opportunities and benefits.

The incentives for provider firms may not appear to be great in the short-term. There is therefore a need for wide communication to the markets involved of the long-term aims and benefits to all players. Incumbents must be helped to understand the changing nature of markets, the critical role of data and the benefits they could reap from both better use of the data they hold and access to data from other players. Government and regulators should be aware that such a change in perspective will be difficult for many, and that resources will have to be dedicated to designing a coherent strategy for the digital economy as a whole, in which open finance has a significant part to play.

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

Significant investment will be needed to progress with open finance. Some sectors are fragmented with data not ready to be shared across the ecosystem. In the pension/insurance markets for examples, there are players with limited resources.

The first issue to be determined here is what data for each sector is to be opened up. Many companies already share data for certain purposes (e.g. fraud-prevention). As with open banking, the benefits for incumbents of data-sharing may not be readily apparent: a concerted communication strategy should be devised to incentivise them.

In addition, internal infrastructures may not currently be adequate to identify, process and share data. Any new regulatory regime must take this into account and adequate time must be given for the required changes.

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

There are various models whereby costs of development can be shared across incumbents and TPPs and costs recouped through monetisation of new products. Further work should be done to establish which models are the most appropriate.

The Open Banking Implementation Entity has started work on premium/commercial APIs which is a direction which should be further investigated. Steps could be taken to assist commercial API development which would allow the long-term recuperation of costs. The models used in other countries, such as New Zealand, can be a useful guide.

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

In our view, the market would not take off if only some firms opened up their data. The very basis of open banking/finance is that it covers as much of the market as possible and is therefore useable by as many consumers as possible.

In addition, for incumbents, access to the data held by all others in the sector is a powerful incentive to participation.

Q 14 & 16: What functions and common standards are needed to support open finance? How should they be delivered? To what extent should the standards and infrastructure developed by the OBIE be leveraged to support open finance?

Common technical standards are essential to support open finance and in our view the work done by the OBIE should be used to the extent that this is appropriate. Each sector will also have its own specific products/services where bespoke standards may need to apply. These standards should be developed in close consultation with industry – current providers, technology firms and prospective TPPs. We would agree that the OBIE is not currently suited to this role and believe that a new body is required.

The long-term maintenance of the standards – and the administration of trustmarks - should also be entrusted to a cross-sectoral body, which works in close collaboration with stakeholders from across the industries. As was found in open banking, technical implementation is closely linked with the values which underpin the service to be delivered (e.g. the level of friction; amount of information supplied in the customer journey). The work of the standards bodies, therefore, must be guided by the overarching principles defined at the governance and regulatory level (see further, section 1 above).

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

This question brings us back to the discussion of oversight and governance of an extended data ecosystem as a whole (see section 1 above). This is an issue not fully discussed in the Call for Input but which we believe to be crucial for the success of the UK's development as a digital economy.

The data which would be opened up under the Smart Data Review would add hugely to the types of service TPPs could provide and so lead to benefits for users even larger than those posited through open finance. It is in the combining of different data types that the most innovative services can arise.

Q17-18: Do you agree that GDPR alone may not provide a sufficient framework for the development of open finance? If so, what other rights and protections are needed? Is the open banking framework the right starting point?

The main focus of the GDPR is on the conduct of companies which hold data. In addition to this, there are certain rights accorded to consumers which allow them to download their data from a source and to require that data be removed from online locations.

In the view of techUK, a different approach is needed when it comes to open finance: one that takes its focus from the perspective of the user. The GDPR therefore, may not provide a sufficient framework, as clearer rules are required as to consent, the extent to which data may be shared and the uses to which it can be put so that the consumer has proper control.

When it comes to the use of their data, a number of things are of concern to consumers:

- Will they derive benefit from sharing their data?
- Will their data be safe or might it be stolen? Is the company trustworthy and does it have secure procedures for handling the data?
- Will the data be used for purposes other than those the consumer wants; what might these be; will they be ethical purposes?
- Can consent be easily withdrawn?
- How to keep track of data usage?

These considerations should underpin the development of a regulatory regime for open finance and also the opening of data in any other sector. This again, goes back to governance, as the procedures devised to answer these concerns should be coherent across all markets and overseen by a principle-based governance body made up of government, regulators, providers, TPPs and consumers.

Q19: What are the specific ethical issues we need to consider as part of open finance?

See section 1 above. Other specific ethical issues arise concerning insurance. Data could be used to effectively render some people 'uninsurable' and increase the existing divide. Too much data concerning an individual could destroy the risk-sharing model on which insurance currently operates and only favour people in the best situation. Further work will therefore be required to determine what types of information may legitimately be used in calculating risk in the insurance sector.

Q 20: Do you have views on whether the draft principles for open finance will achieve our aim of an effective and interoperable ecosystem?

In addition to the draft principles, an open finance ecosystem will require a secure infrastructure on which all parties can rely, and which is easily accessible and useable by all players. Also, as noted above, some system of trustmarks and a clear redress mechanism should form part of the package of open finance implementation.

Such principles should not only be developed purely for open finance; techUK calls for a concerted effort and approach. There are other countries moving forward with open data initiatives and lessons should be learnt from their experience (e.g Consumer Data Right in Australia, India's Unified Payments Interface, Japan's Amended Banking Act, etc.).

Q21: How should this set of principles be developed? Do you have views on the role the FCA should play?

In the view of techUK, the FCA should compile some recommendations to government proposing a regulatory regime for open finance. Government must then ensure that the principles developed for open finance are consistent with those which underpin any proposals from BEIS on smart data. In addition, these basic principles should be flexible enough to be applied to any further extension of the 'open data' ecosystem, which may come in the future. Overall, the UK's regulatory regime may need to be reviewed and revised to be ready for the interconnected aspect of many sectors in the digital world.

Q 22: 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.

The 90-day re-authentication rule from the PSD requires the customer to reauthorize, using strong customer authentication. In addition, PSD2 only mandates single immediate payments – so recurring payments and variable repeat payments also entail re-authorization. Both these requirements inhibit a number of services, which could bring great benefit to consumers. We would propose that these rules be revised.