

22 March 2018

Mr Daniel McAuliffe
Manager, Structural Reform Group
The Treasury
Langton Crescent
PARKES ACT 2600

By email: data@treasury.gov.au

Dear Mr McAuliffe

REVIEW INTO OPEN BANKING

Thank you for the opportunity to comment on the above. We support the majority of recommendations for the implementation of Open Banking. Open Banking will begin to address the key barrier for small business to grow, the lack of access to finance. By allowing data to be shared with third parties competition in the banking sector will increase which will diminish the current imbalance of power held by the major banks.

Key to the security of open banking is the accreditation of the parties to a data transfer. We support recommendation 2.7 that the Australian Competition and Consumer Commission (ACCC) should be responsible for ensuring the process and criteria by which accreditation occurs.

We have concerns with recommendation 2.8 - a tiered risk-based model. This will add a layer of complexity for the customer and create an imbalance of power. If a major bank is accredited for high risk data sets but a fintech for low risk, data held by the major bank will not be able to be transferred to the fintech.

Similarly, we do not support automatic accreditation for financial services providers with a current license. A tiered system that automatically rewards accreditation to receive high risk data to current banking licensees retains the imbalance of power. The intent of open banking is to provide the customer the choice to transfer data to an accredited third party. A tier system will mitigate the intent of the CDR by limiting what data can be transferred to different accredited participants.

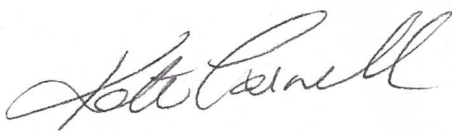
In addition to the transfer of transaction data we recommend the addition of the rationale behind changes to the status of an account. We are aware some of our major banks, such as NAB, have taken a moral stance and withdrawn financial services from certain sectors. These include the adult industry, payday lenders and money remitters. When seeking another financial provider, such customers must not be disadvantaged due to a bank closing an account on grounds unrelated to the financial worthiness of the customer.

We acknowledge that recommendation 2.10 – customer complaints and remedies may be undertaken by different bodies for different industry sectors. In the scope of Open Banking we recommend that the Australian Financial Complaints Authority (AFCA) to be the body to manage customer complaints and remedies. AFCA will have the expertise to consider, and processes to resolve, customer complaints where financial loss is suffered. We further propose that the definition of a small business be raised to an annual turnover of less than \$5 million in line with AFCA's monetary limit. In addition, we strongly support recommendation 4.4 for small businesses to be captured under the protection of the Privacy Act to seek remedy for disputes arising from a breach of confidentiality.

We commend recommendation 3.11 – no charge for customer data transfers. For licenced ADI's the costs should be minimal and easy to absorb. As past inquiries and reviews have found, Australian banks already use a vast array of fees far in excess of the costs of doing business to generate revenue. We acknowledge that costs to participate will be higher for non-ADI's as they may have additional changes to implement. This should be offset with the access to data opening up the market for non-ADI's to compete for customers.

I hope these comments assist you and would be happy to discuss these matters further. Please feel free to contact either myself or Ms Jill Lawrence, by telephone 02 6263 1558 or email jill.lawrence@asbfeo.gov.au

Yours sincerely,



Kate Carnell AO

Australian Small Business and Family Enterprise Ombudsman