23 March 2018

The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [data@treasury.gov.au](mailto:data@treasury.gov.au)

Dear Sir/Madam

**Review into Open Banking in Australia – Final Report**

COBA appreciates the opportunity to provide comments on the recommendations of the Review into Open Banking in Australia.

COBA is the industry association for Australia’s customer owned banking institutions, i.e. mutual banks, credit unions and building societies. There are 78 institutions in the customer owned banking sector, ranging in size from under $200 million in assets to more than $10 billion. Collectively, our sector has $110 billion in assets and four million customers.

**Key points:**

* COBA is generally supportive of the approach recommended by the Review, including design of the proposed framework. However, we do not support mandatory participation by smaller banking institutions.
* Implementation of an Open Banking regime that is likely to deliver the benefits of competition and innovation requires mandated participation of the major banks but does not require mandated participation by all other banking institutions.
* Policy-makers should seek to keep costs to the least necessary to achieve their objectives.
* The post-implementation review (Recommendation 6.6) is the opportunity to consider issues such as whether or not to extend the mandatory participation regime to ADIs other than the major banks and the timing of any such extension.
* Smaller banking institutions should be able to participate according to their own timetables based on their customer needs and their investment priorities.
* Several COBA members have indicated they will be early adopters of Open Banking.
* Our sector’s willingness to deliver customers the benefits of technological innovation is demonstrated by its strong ‘day one’ participation in the New Payments Platform and widespread availability of digital wallet applications such as Apple Pay, Android Pay and Samsung pay.

**Banking market & costs of regulatory intervention**

The four major banks have around 80 per cent of the home loan, deposits and credit card markets in a banking market the Productivity Commission describes as “a strong oligopoly with a long tail of smaller providers.”[[1]](#footnote-1)

According to the ACCC, “in situations of oligopoly, all else being equal, a market structure that enables a competitive fringe of second tier firms to effectively challenge the price and service decisions of large incumbents is likely to produce significantly better outcomes for consumers than one that does not.”[[2]](#footnote-2)

Regulatory interventions and regulatory compliance costs are critical factors in determining whether the competitive fringe of second tier firms can challenge the major banks.

Implementing Open Banking will involve significant costs, including the costs of building the technical infrastructure, sourcing the necessary skills and resources to participate, and implementing the policies and procedures to comply with the regime.

Smaller ADIs should be not forced to budget and plan for unknown costs and unknown technical solutions when they may have more important investment priorities to compete with major banks and serve their customers. Technology evolves rapidly and more cost-effective solutions are likely be available after the initial implementation of Open Banking.

In implementing Open Banking, policy-makers should seek to keep costs to the least necessary to achieve their objectives.

Given this cost burden and the state of the banking market, mandating participation by all banking institutions on an aggressive timetable will be counterproductive. The costs of complying with regulation fall more heavily on smaller firms. This effect provides yet another advantage to the major banks because they can spread fixed regulatory compliance costs over a vastly bigger revenue base. In customer-owned institutions, these costs fall onto their customer-owners.

Implementation of an Open Banking regime that delivers the promised benefits of competition, innovation and productivity requires the participation of the major banks but does not require the mandated participation by an arbitrary date of all other banking institutions. A targeted approach is the most efficient way to increase competition.

Customer owned banking institutions have a strong, built-in incentive to participate in Open Banking because, as challengers to the dominant players, they are motivated to maximise their competitive potential and the visibility to consumers of their products and services. This means that, subject to strategic priorities and resource constraints, challenger banking institutions are likely to voluntarily participate in Open Banking.

In contrast, the dominant players in the market are less likely to voluntarily participate. The House Economics Committee found that the major banks have “a conflict as the process of opening up data will lead to the asset being shared with other financial services companies.”[[3]](#footnote-3) The Productivity Commission (PC) found that “it is likely that access to data provides some degree of competitive advantage for incumbents.”[[4]](#footnote-4)

Once Open Banking has been implemented via mandatory participation by the dominant players in the market, other institutions will feel mounting competitive pressure to participate. Over time more and more customers will demand the services that can only be provided through the ‘open banking’ interface (i.e. the apps and comparison tools).

**Design of the Framework**

COBA broadly supports the design of the Open Banking framework proposed by the Review.

COBA members have noted support for key design features including:

* the need for accreditation of third parties to access the data
* support for the assumed accreditation of ADIs to receive data
* the need for customer consent to share data
* proposed data sharing scope, including to the extent that it excludes propriety data
* initial implementation of ‘read’, with progress to ‘write’ access later
* allocation of liability to data recipients, and
* third party compliance with Privacy Act.

**COBA does not support mandating participation by all ADIs**

COBA does not support the Report’s recommendation to mandate small ADIs into Open Banking 12 months after the commencement date. Even the proposed phased approach reduces the individual choice of smaller ADIs to decide their priorities and plan their investments.

There should be greater flexibility for smaller ADIs to adopt Open Banking according to their own timetables, given relatively limited resourcing and uncertainty about customer take-up.

The Review proposes a phased commencement for entities, acknowledging “potential resource constraints and competing demands” for smaller ADIs.

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| Recommendation 6.2 - phased commencement for entities  From the Commencement Date, the four major Australian banks should be obliged to comply with a direction to share data under Open Banking. The remaining Authorised Deposit-taking Institutions should be obliged to share data from 12 months after the Commencement Date, unless the ACCC determines that a later date is more appropriate. |

COBA strongly supports the intent on this recommendation to provide additional time for small institutions but we do not support limiting this time to 12 months.

The better approach to the ACCC’s determination powers is the approach taken in relation to the proposed implementation of comprehensive credit reporting (CCR). In the current draft CCR Bill[[5]](#footnote-5) the Government proposes to mandate in the large ADIs, while providing the ability to make regulations to mandate in other credit providers as it sees fit. The Explanatory Memorandum says: “The Government expects that regulations would be made if it becomes apparent, after the mandatory regime has been in operation, that other credit providers are not voluntarily supplying data”[[6]](#footnote-6).

This approach allows for the consideration of a multitude of factors before extending the regime to the wider ADI community.

COBA believes that such an approach will allow the ACCC to consider the take-up of Open Banking by consumers and the actual rather than forecast benefits as well as firmer information about:

* the costs of Open Banking
* the emergence of potential low-cost alternatives that meet the Consumer Data Right (CDR)[[7]](#footnote-7), and
* other lessons learnt from the first phase of Open Banking implementation.

This approach will provide greater flexibility for small ADIs to adopt Open Banking according to their own timetables based on their customer needs and their investment priorities. An arbitrary implementation date is likely to drive up costs as entities compete for a limited supply of expertise.

The challenge of implementing Open Banking even for large banking institutions is demonstrated by the UK experience.

The UK mandated nine larger banking institutions into Open Banking and of these, five banks (Barclays, [RBS](http://www.cityam.com/company/royal-bank-of-scotland-group), HSBC, Bank of Ireland and Santander) sought extensions to the deadline.[[8]](#footnote-8) Another institution (Nationwide Building Society) required a last-minute extension. [[9]](#footnote-9)

**Mandated Open Banking would be costly and compete with other priorities**

Implementing Open Banking will involve significant costs, including the costs of building the technical infrastructure, sourcing the necessary skills and resources to participate, and implementing the policies and procedures to comply with the regime.

Due to their relatively small size compared to the major banks, customer owned banking institutions continually face difficult trade-offs in deciding where to allocate scare resources for investment.

There are several other projects competing for resources in near future. Preparation for comprehensive credit reporting is likely to overlap with any mandated Open Banking implementation. Similarly, APRA is in the process of redesigning its data collection solution which is also expected to be rolled out during this period. This is in addition to the general expectations of what is required to compete and meet customer needs in the modern retail banking market, e.g. partnering with fintechs.

Allowing smaller banking institutions to adopt Open Banking according to their own timetables is more likely to see the development of potential lower-cost alternative solutions as envisaged in the Review’s recommendation 1.1. If all ADIs are forced to comply within an arbitrary timeframe, this beneficial outcome will not eventuate.

The Open Banking regime implemented in the UK mandated participation only by the largest banks. The UK regulator found that smaller banks would encounter disproportionately higher costs in adopting and integrating the necessary technology. The UK regulator noted that since their participation was “not essential for the remedy to be effective” and that some of them may in any case choose to participate “as part of their competitive strategy, we should not oblige them to do so, but will welcome their participation.”[[10]](#footnote-10) COBA strongly supports this approach in our market, in keeping with the principle that policy-makers should seek to keep costs to the least necessary to achieve their objectives

**Competitive pressure will ensure expanding participation in Open Banking**

It is highly likely that ultimately customers will walk if they become aware of the benefits of Open Banking and can’t take advantage of them with their current banking institution. Mandating the major banks into Open Banking will create the critical mass of customer data to be available to develop the third-party ecosystem around Open Banking. These applications no doubt in time will provide significant functionality to their users.

Banks that do not provide capacity for their customers to easily share this data will struggle to compete in the market of consumers that are willing to share their data with third parties. These banks will have to justify to their customers why they do not offer this service. These banks are likely to find it difficult to compete for the digitally-savvy consumer.

The response should also consider that almost two-thirds of Australians bank with more than one bank[[11]](#footnote-11). Given the major banks’ dominance of the market, it is likely that one of these banks per consumer is likely to be a major bank (who will have to provide Open Banking). The availability of Open Banking from day one is likely to include entities in addition to the mandated major banks. Other Australian banks, including COBA members, are likely to be early adopters of Open Banking due to their competitive strategy.

Customer-owned banking institutions have already show that are willing to invest in technological innovation that meets customer needs. For example:

* most COBA members provide access to the full range of digital wallet solutions – Apple Pay[[12]](#footnote-12), Android Pay[[13]](#footnote-13) and Samsung Pay[[14]](#footnote-14)
* most COBA members offered their customers access to the New Payments Platform from day one
* most COBA members are supplying direct feeds to accounting software providers Xero[[15]](#footnote-15) and MYOB[[16]](#footnote-16), and
* seven COBA members are participating in KPMG’s Mutuals Fintech Accelerator, “connecting Australia’s most progressive mutual banks with fintech startups.”[[17]](#footnote-17)

Increasing numbers of smaller banking institutions are likely to adopt Open Banking once the costs and benefits are clear enough to make an informed commercial decision. As Open Banking delivers benefits to consumers, it is likely that the market will demand greater adoption as more customers want to share their data with Fintechs and other third parties.

**Uncertain take-up rates**

As with any major reform, there is always uncertainty about the potential outcomes. It is more efficient to mandate in the major banks and let the remaining ADIs progress into open banking on their own timeline. If there is to be compulsory participation in Open Banking by all ADIs, then the ACCC should decide the timing based upon sufficient evidence that it will promote competition.

The Review itself concedes that Open Banking is an untested proposition: “While it is expected that Open Banking will deliver major benefits, all regulatory reforms are essentially propositions to be tested and should therefore be evaluated for their effectiveness.”[[18]](#footnote-18)

If take-up rates are low, the case for smaller banking institutions to allocate scarce resources to this area is weakened.

The unknown adoption curve has been highlighted as an issue in the UK pending the launch of Open Banking there: ‘Matt Cox, head of insight and innovation at Nationwide Building Society is a tad more skeptical though. “So when this thing launches do I think there will be an explosion of people using it? No. Traditionally you see a relatively consistent take-up profile, with early adopters and 5-10 percent of users waiting to consume this. There will be an adoption curve and the steepness of that will come down to how we as an industry get trust and security right.”’[[19]](#footnote-19)

Similarly, a recent Accenture survey found that two-thirds of consumers in the U.K. said they won’t share their personal financial data with third-party providers”. These results also vary by demographic:

One-third (39 per cent) of Gen Z respondents – those born after 1996 – describe themselves as likely to use open banking instead of their usual method of payment in the future, compared with just 13 per cent of Baby Boomers (those born between 1946 and 1964).[[20]](#footnote-20)

**Post-implementation review**

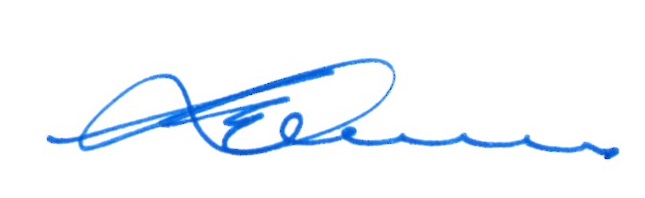
Recommendation 6.6 of the Report proposes a post-implementation review 12 months after the Commencement Date. We support this recommendation and suggest that the post implementation review is the opportunity to consider issues such as whether or not to extend the mandatory participation regime to ADIs other than the major banks and the timing of any such extension.

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| Recommendation 6.6 – timely post-implementation assessment  A post-implementation assessment of Open Banking should be conducted by the regulator (or an independent person) approximately 12 months after the Commencement Date and report to the Minister with recommendations. |

The review will assess the impact of initial implementation of Open Banking and whether the regime is working optimally for consumers. Decisions can then be taken on whether the regime needs amending. Significant changes could have significant cost implications due to the need to change systems and processes for participating ADIs. This is another reason not to force smaller ADIs to comply by an arbitrary date in conflict with their other investment priorities.

Thank you for the opportunity to provide this submission. If you would like to discuss any aspect of this submission, please contact me on 02 8035 8441 or COBA’s Policy Director, Luke Lawler, on 02 8035 8448 or at [llawler@coba.asn.au](mailto:llawler@coba.asn.au)

Yours sincerely



**MICHAEL LAWRENCE**

**Chief Executive Officer**

1. Productivity Commission Draft Report – Competition in the Australian Financial System, January 2018 [↑](#footnote-ref-1)
2. ACCC submission to Productivity Commission inquiry into competition in the Australian financial system, September 2017 [↑](#footnote-ref-2)
3. House of Representatives Economics Committee, 2nd Report into the Major Banks, April 2017 [↑](#footnote-ref-3)
4. 4 PC Report Data Availability & Use March 2017 [↑](#footnote-ref-4)
5. <https://treasury.gov.au/consultation/c2018-t256276/> [↑](#footnote-ref-5)
6. <https://static.treasury.gov.au/uploads/sites/1/2018/02/Exposure-Draft-EM.pdf> [↑](#footnote-ref-6)
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8. Five UK banks given Open Banking deadline extension by CMA, 19 Dec 2017, <http://www.cityam.com/277814/five-uk-banks-given-open-banking-deadline-extension-cma> [↑](#footnote-ref-8)
9. Nationwide delays Open Banking launch, 15 Jan 2018, <http://www.bbc.com/news/business-42691661> [↑](#footnote-ref-9)
10. UK CMA Retail Banking Market Investigation – Provisional decisions on remedies May 2016 [↑](#footnote-ref-10)
11. See Page 78 of ABA submission to the PC Competition Inquiry <https://www.ausbanking.org.au/images/uploads/Submissions/ABA-Submission__PC__Inquiry_into_Competition_in_the_Australian_Financial_System_-_15.09.17.PDF> [↑](#footnote-ref-11)
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13. 41 of 57 Google Pay Participating Banks are COBs or their sub-brands, <https://support.google.com/pay/answer/7351634> / [↑](#footnote-ref-13)
14. 33 of 46 Samsung Pay Banking Partners, <http://www.samsung.com/au/apps/samsungpay/banking-partners/> [↑](#footnote-ref-14)
15. <https://help.xero.com/au/DirectFeeds-AU> [↑](#footnote-ref-15)
16. <https://www.myob.com/au/accounting-software/bankfeeds/feeds> [↑](#footnote-ref-16)
17. <https://home.kpmg.com/au/en/home/industries/financial-services/mutuals-fintech-accelerator/mutuals.html> [↑](#footnote-ref-17)
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