

22nd September 2017

Attention: Review into Open Banking

References:

Open Banking Review - Issues Paper

Data Availability and Use Task Force recommendations

Xero has shaped how data is shared securely by banks with full consumer control in Australia, the United Kingdom, the USA, Singapore, and New Zealand. Many of Xero's USA and UK banking partners are replicating the data sharing models created between Xero and their Australian Banking partners. Having led the way in innovation, Australia has a unique opportunity to establish world-leading policies that build a strong economy underpinned by technology.

Connecting to over 100 banks globally to receive transactional data, and allowing over one million small business customers to share their data to over 600 third party applications on a customer's authenticated permission, Xero is well placed to understand the impacts of any regulation of data sharing.

With the world watching, we believe the Government would be best placed to take a market-led approach, rather than introduce regulation that risks unintended consequences for consumers, small business, and the economy.

Core to the discussion raised in the Open Banking Review Issues Paper, we point to the broader question of both the concept of a Comprehensive Consumer Right (that incorporates Small Businesses), and the findings from the Data Availability and Use Task Force as terms of reference for our recommendations below.

Xero would like to present six key recommendations:

1. Additional governance and Industry-specific regulation

- a. Open Banking, with Financial Institutions as focus of the original report is clearly a mega-sector challenge that is intended to be addressed as a priority.
- b. Adding additional financial industry governance layers to those already in-place today, although likely to be preferred by the banking industry, will be complex and add additional cost to the broader economy, with little benefit to consumers. Governance overlays already enable sharing of data from banks to software platforms and vice-versa.
- c. Beyond Open Banking, adding additional industry-by-industry overlay under a comprehensive consumer right will be complex and add additional cost to the broader economy, with little benefit to consumers
 - i. Potentially complex allocation/nomination of industry domicile
 - ii. Potential for arbitrage between industry nomination
 - iii. Organisations (like Xero) who span many industries will be subject to large range of industry standards driving large compliance overheads and stifling innovation



Recommendation:

1. Avoid introduction of new financial industry governing bodies. A light-touch principles based data sharing framework can be administered under existing banking governance and oversight
2. Following introduction of the Open Banking legislation, Xero recommends that a principles-based approach to Comprehensive Right will establish the necessary imperative to participants in other industries that will negate industry specific regulations

2. Definition of an Australian Small Business under a Comprehensive Right

Restricting the Comprehensive Rights and any Open Banking data sharing regulation in applying to <\$3m turnover businesses is

- a. Overly simplistic definition, with complex regulatory outcome
- b. Opens system to delivering two speeds of innovation across the Australian business landscape
- c. Requires disclosure by SMB to service providers who do not already have financial insight into the turnover of the SMB, exposing that SMB to even greater privacy threats
- d. Results in complex product, channel, technology and data governance models for participants; e.g. when business shifts to new category when it earns \$3m + \$1...

Recommendation:

1. Removal on limitations on entity turn-over; all entities to have Comprehensive Rights to their own data under any Open Banking regulation
2. If a cap is pursued under Open Banking: Sensibly higher cap on entity turnover, set at >\$50m annual turnover

3. Scope of consumer (and SMB) data

- a. Consumer (and SMB) Data should be restricted to transactional data
- b. Including imputed and/or Proprietary data of any kind will remove industry economics required to foster innovation across all industry ecosystems

Recommendation:

1. Consumer Data should be restricted to transactional data
2. Clear and comprehensive definitions for transactional data to be developed under the Comprehensive Right to apply to all industries

4. Transfer Rights

- a. Regulated licensing regime that controlled participation by certifying 'trusted' or 'accredited' license holders would be complex and add additional cost, with little benefit
- b. A regulated licensing regime would overwhelm any governing bodies quickly due to the sheer scale and pace of development in the software industry, reducing Australia's competitiveness



- c. A regulated licensing regime would introduce large administrative burden on Australian businesses

Recommendation:

1. Principles based policy for the certification of third party recipients would allow accreditation/certification to be conducted by the data holder, and tailored by the data holder to suit their industry(s)
2. Clear and comprehensive principles based policy for certification of third party data recipients to be developed under the Comprehensive Right

5. Tiered approach to charging for data

- a. Tiered categorisation and/or classification of data is perceived by Xero as an industry attempt to limit access to data by presenting opaque and/or difficult to scrutinise reasoning for restriction of access to data, by pricing data of strategic value at a much higher price point
- b. Any regulation around access to data should not introduce further strategic or administrative complexities to an already complex issue by allowing consideration of the nature of source systems
- c. Any legislation governing the format in which data is provided should not provide leniencies for organisations in consideration of source systems; this will result in unnecessary complexity and very likely introduce multiple speeds of innovation, and may discriminate against some participants or consumers

Recommendation

1. Transactional data under a Comprehensive Right and Open Banking to be available regardless of any legacy systems or other operational constraints
2. Reasonable grace period to apply to organisation on data where legacy systems or other operational constraints prevent more immediate provision of data

6. Regulation of fees charged

- a. Xero understands that it pays more for consumer (SMB) data (on the permission of our customers) than any other cloud platform in Australia. Very few (less than 5%) of Australia's 135 ADI's charge for access to consumer or SMB data.
- b. However, despite regulation of fees potentially benefiting Xero, any regulated charging for access to transactional data has the potential to stifle innovation
- c. Enforcing fees for data, by regulating them, does not reflect customer expectations that 'they own their own data' and lock in fees structures for many years
- d. Enabling parties to charge customers directly, or charging their chosen service providers (e.g. software provider or financial services provider) for access to raw transactional data enables market forces to determine the value of data and allow economics to drive innovation



Beautiful accounting software

Recommendation:

1. Market forces should drive data pricing, as in all open markets
2. Bilateral negotiation between data holder and data recipient should remain
3. Transparency for consumers about the fees charged by the data holder to them directly or to their service provider for access to transactional data only should be mandated to ensure pass-through/cost recovery is enabled without risk of non-value-added profiteering at the expense of consumers
4. Imputed and proprietary data to be exempt as per recommendation 3 on Scope of Data

Contacts:

Trent Innes

Managing Director – Xero Australia

trent.innes@xero.com

0414 309 992

Ben Styles

General Manager – Financial Services

ben.styles@xero.com

0401 000 134

Xero Australia Pty Limited

ABN 89 124 215 247

1/6 Elizabeth Street

Hawthorn VIC 3122

Australia

www.xero.com

info@xero.com