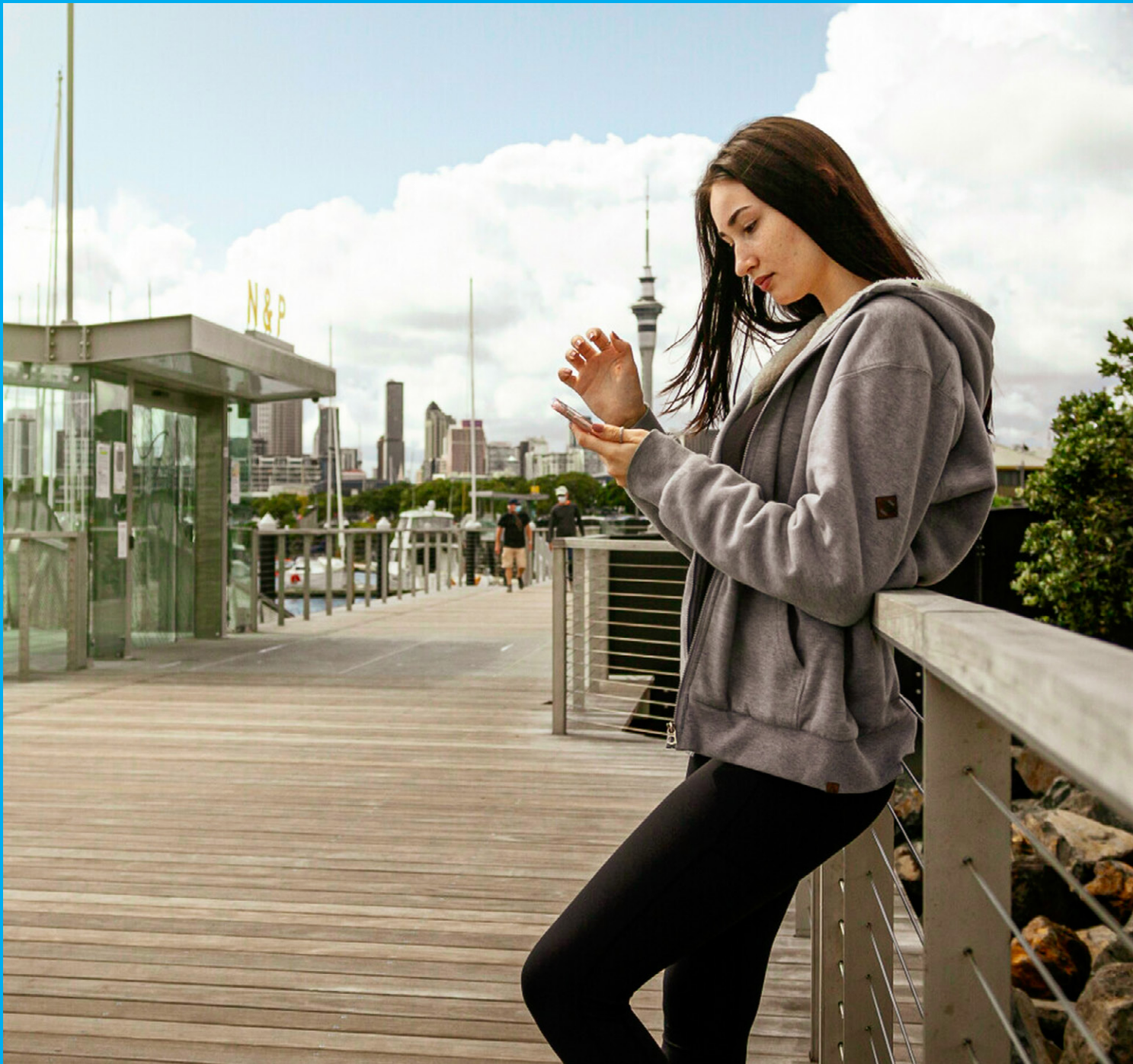
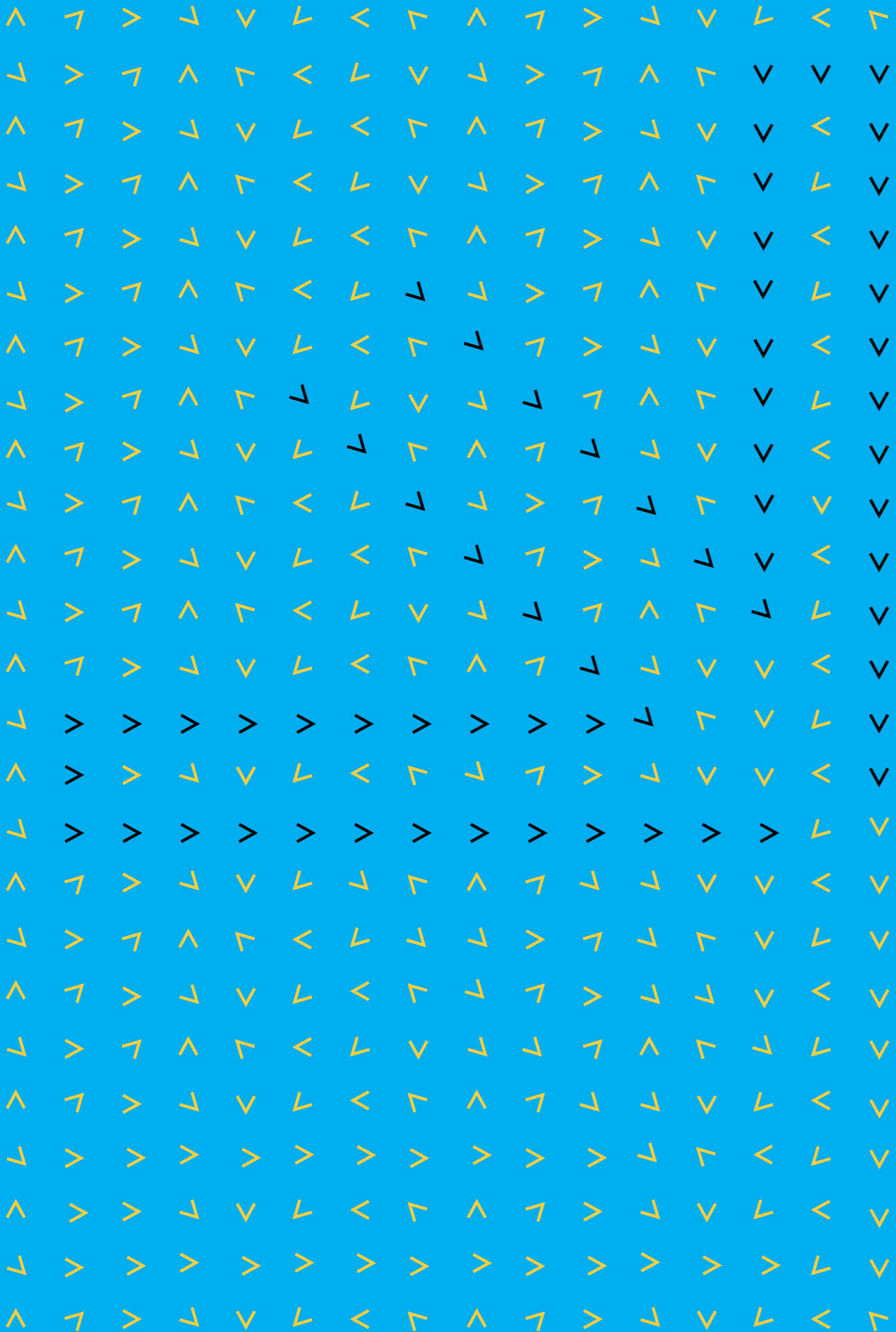


Looking Ahead

Open Banking in
Aotearoa New Zealand

November 2023





Contents

Foreword	2
Executive summary	5
Sections	
Data and the data economy	6
A highly successful open banking ecosystem	14
Bringing open banking to market	20
Looking to the future	26
Conclusion	32
Appendix	35
Glossary	37

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Foreword

Kia ora koutou,

Mā te huruhuru ka rere te manu - Adorn the bird with feathers so it may soar.

In 2019 open banking in Aotearoa New Zealand took a major step forward with the launch of our Payments NZ API Centre. At that time our open ecosystem was a fledgling and over the past four years we've been adorning it with feathers, as in the whakatauki above, so it can take flight.

The centre has evolved, learning from best practice locally and internationally, and is well on its way in leading the future of open banking in Aotearoa.

The centre has now developed, built and maintained a range of API Standards, tools and services and has this year delivered a minimum open banking implementation plan, which sets dates for the largest API provider banks to be ready with standardised APIs.

There has been growing acknowledgement that open banking sits within a much broader digital economy context, and is part of creating a more prosperous, inclusive and equitable digital future for New Zealanders. We stand on the edge of an exciting open banking transformation that promises to redefine how households and businesses interact with and utilise financial data.

The regulation of open banking is also on the cusp of change with the proposed introduction of a consumer data right. The banking sector will be the first industry to implement this new right, followed by the energy, broader finance, insurance, and health sectors.

The time is ripe for us to revisit the current landscape of open banking in Aotearoa. We should reflect on where it's started from, contemplate where it might be heading, and critically assess the type of industry and regulatory frameworks that are essential to ensure its ongoing success.

We'll know we've succeeded in developing an effective open banking ecosystem when innovative and enhanced products and services are being widely used by consumers and businesses to support their financial wellbeing.

This paper serves as a stepping stone on this journey, offering insights, recommendations and a vision for the future of open banking in Aotearoa.

I hope you find the contents useful as you contemplate the future of open banking.

Ngā mihi,



Steve Wiggins

Chief Executive, Payments NZ

Kia ora koutou,

Open banking in Aotearoa is still finding its feet in an era marked by rapid technological advancements and an ever-expanding digital landscape. Acknowledging the complex range of data, privacy, technology, competition and partnering considerations that arise in this environment, we are supporters of innovative, interoperable, open and safe industry-led innovation and delivery.

Through the API Centre, industry co-ordination coupled with right-sized regulation can accelerate the development of the open banking ecosystem and expand into areas such as open finance and beyond.

To achieve that outcome, both the work we do in the API Centre and the proposed legislative framework need further refinement and calibration. Co-ordinating change across industry, regulators and the wider ecosystem is a challenge, but one all of us need to be up for, in order to see open banking succeed.

For the proposed regulatory regime to deliver on its potential, it is critical that proficient implementation bodies within each sector are identified. Given our extensive groundwork to date, the API Centre is well positioned to continue leading open banking in Aotearoa.

As we move forward, I encourage all interested stakeholders to get involved in the work of the centre. I trust this report will strengthen understanding about the current state of the open banking ecosystem and its future potential.

Ngā mihi,



Philip Cass

API Centre Manager



Executive Summary

Open banking is a global development that is reshaping how we think about banking and payments. It provides a secure way for consumers to share banking data with third parties, such as fintechs, using technologies like Application Programming Interfaces (APIs).

Those third parties can then use consented access to consumer data to provide new and innovative services.

This report looks at open banking in Aotearoa, where it has been, and where it might be heading, as well as the type of regulatory support that is required to make it a success.

While banking and payments are key areas of the digital economy that have seen significant and rapid development, open banking sits within a much broader context of momentum to create a more prosperous and inclusive digital future for all citizens.

In part, delivering that future hinges on opening access to data across all sectors of the economy and delivering digital tool sets to turn that data into insights that can benefit us as individuals and the communities we live in.

The foundational vision set out in The Digital Strategy for Aotearoa - Te Rautaki Matihiko mō Aotearoa states “everyone accesses and uses the internet and digital technologies in ways that work best for them. Digital tools and services are trustworthy and accessible. We can trust organisations to collect, use and store our data in secure and culturally appropriate ways.”¹

Open banking in Aotearoa has been designed and implemented by industry for industry’s benefit under the auspices of Payments NZ’s API Centre (the centre). This industry-backed and led approach sits in sharp contrast to some other jurisdictions, notably Australia and the UK, where different levels of regulatory intervention have been used to deliver open banking outcomes.

Open banking products are available in Aotearoa. However, the industry-led arrangements are yet to fully deliver on the promise of open banking. It takes time to design the required standards, digital tool sets, and trust frameworks to create a secure and trusted ecosystem. There are some areas the centre has not been able to fully address due to

competition law issues, notably accreditation and development of standard partnering terms.

Our industry-led arrangements will soon sit within a new statutory framework when the Customer and Product Data Bill² (the Bill) becomes law.

In our view legislation can be used to capitalise on the groundwork completed by the centre to date while also leveraging Payments NZ’s long-standing experience in rules and standards development. This will produce a consumer centric open banking system that is responsive to market needs and enables investment in new and innovative open banking products. It is critical to get the legislation right as banking will be the only sector where existing activity and investment will fall within the ambit of the new statutory scheme.

With the right type of legislative support and a highly interoperable digital identity system, the centre is well placed to deliver a vibrant and well-functioning industry-led open banking ecosystem and to help our people, communities, economy, and environment flourish in the digital era. In that respect the centre continues to make a positive and enduring contribution to the vision set out in The Digital Strategy for Aotearoa.

We present our views in five sections.

Section 1 sets out a brief review of open banking in the context of rapidly growing policy interest in data.

Section 2 contains our assessment of what a highly successful open banking ecosystem for Aotearoa would look like, both in terms of the attributes of that ecosystem and the outcomes it should deliver for ‘NZ Inc’.

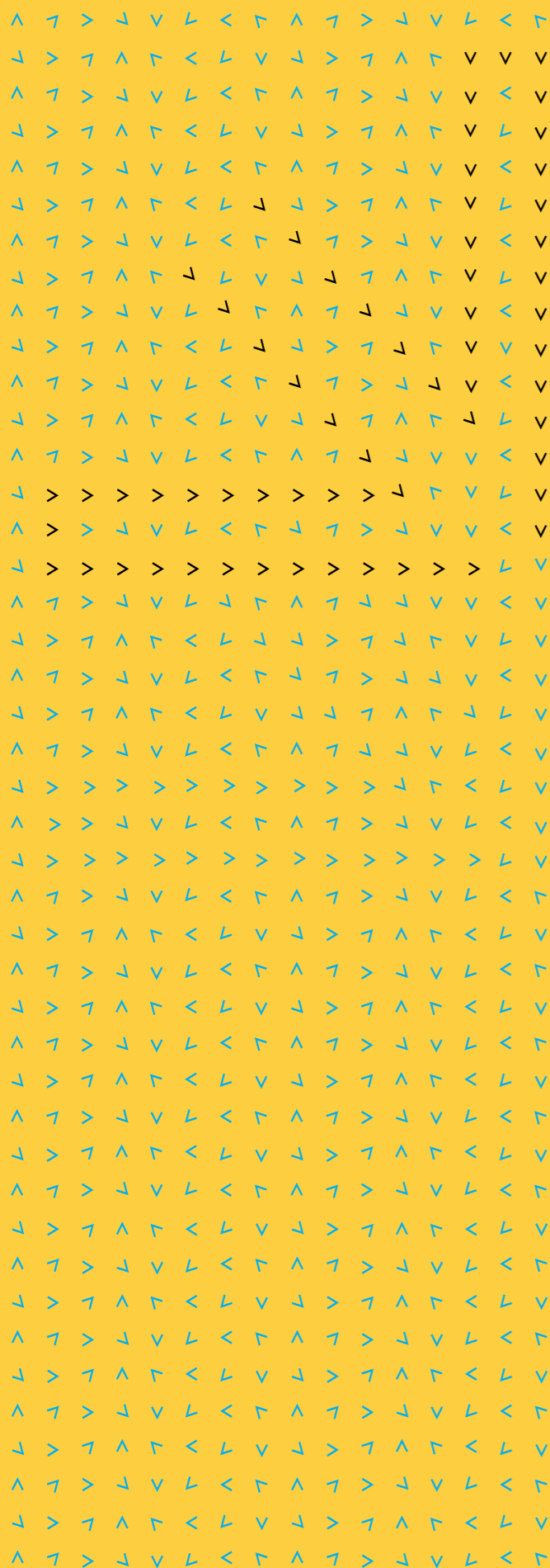
Section 3 examines how legislation could be used to leverage the centre’s ecosystem experience and to address the limitations of what the centre can achieve on its own, while also enabling flexibility to respond to the emerging digital economy of the future.

Section 4 sets out a possible future for open banking, drawing on lessons from two other jurisdictions, the UK and Australia, where the future of open banking has been the subject of considerable focus.

Section 5 sets out our conclusions.

¹ The Digital Strategy for Aotearoa

² The Bill defines a customer as a person that acquires, or is seeking to acquire, goods or services from a data holder and customer data as data that is about an identifiable customer that is held by or on behalf of a data holder (including, for example personal information within the meaning of the Privacy Act 2020).



1.



Data and the data economy

Introduction

We live in a society where data continues to open a world of possibilities. The advent of low-cost machine-readable data and the development of computing power and technology products to process that data has driven an inflection point.

It has led to an explosion of new products and services, new insights on consumer behaviour and new approaches to how we might resolve some of the most pressing social and environmental challenges that lie ahead.

It should come as no surprise there is a great deal of excitement about the ability of data to empower citizens, change how governments function, improve the delivery of public services and grow more productive and inclusive communities.

In this section of our report, we outline the move towards the data economy, the growing policy interest in data, its potential to transform our lives and where open banking sits in the context of these developments.

The move towards the data economy

As a society, we have become increasingly aware we can use data to achieve a range of worthy outcomes including³:

- > Enabling innovation.
- > Validating hypothesis.
- > Raising awareness.
- > Facilitating coordination.
- > Creating trust.

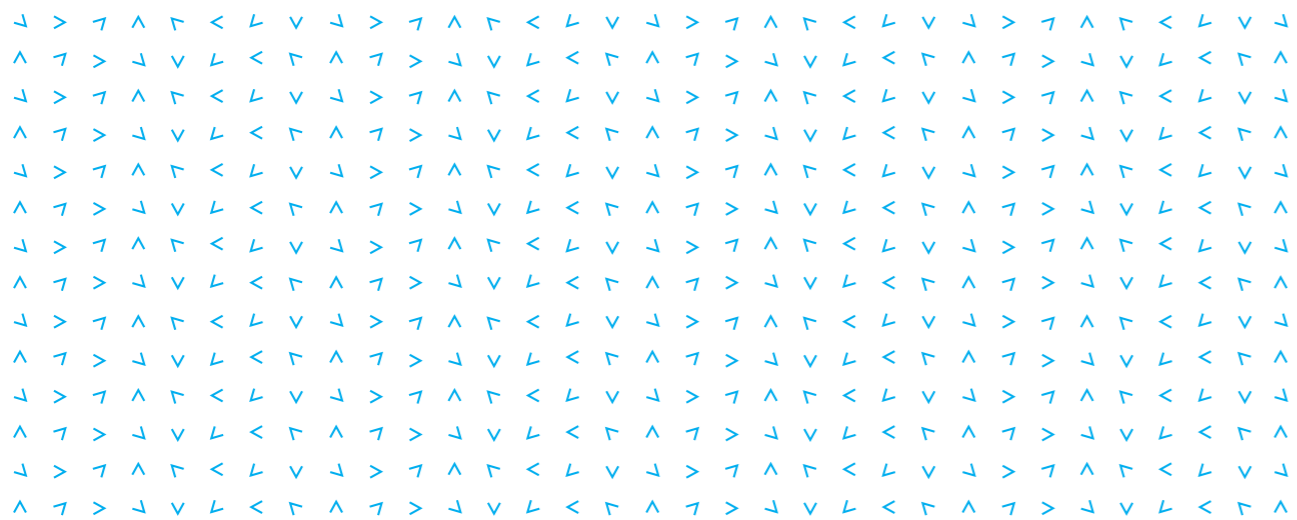
Data is seen as holding potential solutions to some of the most significant challenges facing us in a way that delivers both economic and social value. The ability of data to play a substantial role in delivering those solutions is enhanced because data:

- > Can be used multiple times without being depleted; and
- > Is 'non-rival', meaning the same data can potentially be used simultaneously by more than one person at the same time without them needing to compete for access to it or use it for the same purpose, or by the same methods.

Policy makers have expressed concerns the transformative potential of data could be diminished by barriers to its access, leading to poorer outcomes for the economy and society as a whole. Accordingly, if we are to realise the full potential of data we need to:

- > Free data from the current silos that exist in both the public and private sectors, and which are fragmented across industry (e.g. actuarial data in the insurance industry and health data in the healthcare industry).
- > Leverage new forms of data that are only available because of the Fourth Industrial Revolution; the combination of computing power and connectivity that has blurred the division between our physical and digital worlds.
- > Develop safe and secure ways to share that data. This is essential to improving trust amongst those who own, hold, and use data.
- > Provide access to and education around digital tools which enable the transformation of data into actionable insights and innovation.
- > Respond to societal pressures to be able to access and own/control data that is about 'us' but which might be held by another entity.

³ Sharing Data to Address Our Biggest Societal Challenges | BCG



Policy interest in data is rapidly growing.

Given the significance of data to the digital economy of the future, policy makers have focused on the development of national data strategies and the benefits of 'opening up' the data economy.

A central objective of those national strategies and plans is to allow the full value of data to be realised across the economy. For example, in the UK, a National Data Strategy has been launched which sets out the contribution data can make to⁴:

- > Boosting productivity and trade.
- > Supporting new businesses and jobs.
- > Increasing the speed, efficiency, and scope of scientific research.
- > Driving better delivery of policy and public services.
- > Creating a fairer society for all.

Aotearoa has also developed a Government Data Strategy and Roadmap which will ensure that⁵:

- > People trust the data they share with the government will be collected, managed, and used safely and responsibly.
- > Māori and iwi have the data system they need to fulfil their aspirations.
- > People and organisations have access to efficient, effective government services.
- > Government decisions are informed by the right data at the right time.
- > Government is held to account through a robust and transparent data system.

Moves to open up the data economy are evident at a range of different levels. Intergovernmental agencies such as the Organisation for Economic Co-operation and Development (OECD), and the World Economic Forum have been actively discussing data portability and interoperability⁶. The Open Data Institute (ODI), a non-governmental body, has developed considerable expertise in how to create a trusted data ecosystem. To that end the ODI has developed a substantial body of knowledge on open data and the standards required to publish, access, share and use that data⁷.

Consumer data has been a point of emphasis in policy development. In 2017 The Australian Productivity Commission defined consumer data as "personal information (as defined in the Privacy Act 1988) that is in digital form; files posted online by the consumer; data created from consumers' online transactions, Internet-connected activity or digital devices; data purchased or obtained from a third party that is about the identified consumer; and other data associated with transactions or activity that is held in digital form and relevant to the transfer of data to a nominated third party."⁸

Recently, steps have been taken to give consumers greater control over data about them and to identify the mechanisms to allow consumers to share data safely and securely and to determine for how long and for what purpose. Giving consumers confidence their data is secure and will be used in ways that benefit them is a critical issue.

4 National Data Strategy - GOV.UK (www.gov.uk)
 5 Government Data Strategy and Roadmap 2021 - data.govt.nz
 6 An example can be found at Data portability, interoperability and competition - OECD
 7 Types of open standards for data | Open Standards for Data Guidebook (theodi.org)
 8 apo-nid241516.pdf



Open banking is just the beginning

Open banking is one area where the focus on consumer data has generated considerable attention, in part because the technological revolution of the past decade has seen a blurring of industry boundaries. In short, companies outside the traditional financial services industry have been able to design new product offerings to, in some instances, better serve customers than incumbents.

Open banking is an omnibus term used to describe a secure way for consumers to share banking data with third parties, such as fintechs, using technologies such as application programming interfaces (APIs). Open banking enables the customer to direct that they, or third parties chosen by them, be provided with banking data in a secure environment and in a prescribed way, so it can be used to offer them new or better services.

Fundamental to open banking is the idea that the sharing of consumer data should only happen with express consent. Open banking promotes greater competition and innovation for the benefit of consumers, businesses, and the wider economy.

The data that falls within the scope of open banking may well be private data but the common standards that govern the types of data, the API standards and the security standards that are to be used are 'open'. Having common standards on the underlying data and the mechanism for accessing it removes many of the frictions and risks associated with data-sharing in the pre-open banking world.

Open banking exists within the context of the more recent open finance movement. And, both open banking and open finance sit within a broader landscape of open data. These terms are often defined in different ways depending on the context that is relevant. That said, the OECD note "open finance could be described as the next stage in the evolution of open banking-type of data sharing arrangements. Building on existing frameworks, it expands data access and sharing to data sources beyond payment/transaction data, while it also includes other areas of financial activity (e.g., insurance)."⁹

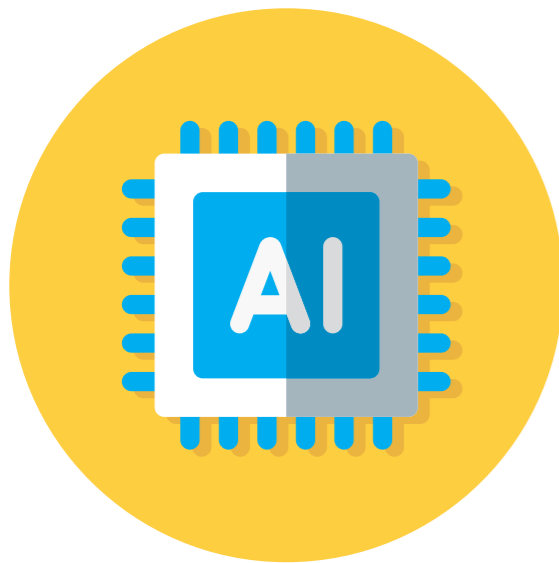
The European Commission recently announced its ambitions for a new Financial Data Access (FIDA) framework. Once finalised, FIDA will expand open banking data-sharing obligations to nearly all financial services data. It promises to be the legislative backbone of open finance in the European Union (EU).¹⁰

Open data goes further and captures other non-financial information that can be shared at the request of consumers through standardised and secure interfaces. Deloitte and the Institute for International Finance comment that "open data can be viewed as an ecosystem that brings together data custodians, who capture, process, and store consumer information on their behalf, with a broader scope of third-party users of those data—all in service of improving data portability and consumer outcomes including greater choice, better user experiences, and lower cost services."¹¹

9 Shifting from Open Banking to Open Finance (oecd-ilibrary.org)
 10 Framework for financial data access (europa.eu)
 11 32370132_final_report_-_open_data_22_june.pdf (iif.com)

Of late the term 'smart data' has entered the policy debate, especially in the UK. The definition of smart data is also somewhat context-specific, but mostly centres on extending data portability frameworks to other areas of the economy, such as energy and communications, ensuring secure and consented sharing of customer data with authorised third-party providers and driving cross-sector data driven innovation.

Increasingly artificial intelligence (AI) will be a feature of the open data landscape. AI and open data have a reciprocal relationship. Access to open data improves the accuracy and predictions generated by AI models. A potential positive outcome is that the results from AI models can increasingly take an individual's personal preferences into account. Of course, there are also potential negative outcomes too, where individuals/groups are discriminated against based on statistical likelihoods outside the control of those parties.



Different approaches to the same outcome

Most OECD countries have established specific frameworks for open banking, although varying approaches have been taken to implementation. Some of those frameworks have the force of law. Others do not. Some jurisdictions are still at an early stage in formulating their open banking frameworks. For example:¹²

- > In the UK, the Competition and Markets Authority (CMA) issued an Order in 2017 for the banking sector to establish open banking through an Open Banking Implementation Entity (OBIE). Policy makers in the UK now regard open banking as the jurisdiction's first and most advanced 'smart data' initiative.¹³
- > In the EU, member countries have transposed the Revised Payment Services Directive (PSD2) into national law. PSD2 requires banks to grant qualified third parties automated access to customer transaction accounts. PSD2 came into force in January 2018.¹⁴
- > In Australia, open banking was implemented through the introduction of a consumer data right via legislation. The live sharing of consumer data began with the banking sector on 1 July 2020. All Australian banks are required to participate in the CDR.
- > In Japan, the Banking Law was amended in 2018 to promote open banking initiatives. Banks are required to open their APIs as a non-binding obligation to allow fintechs to access banks' systems.
- > In Canada, the government has appointed an open banking lead to evaluate the best way to enable the safe introduction of a "made-in-Canada" open banking regime.
- > Outside the OECD, Singapore has encouraged its banks to adopt open banking, by providing guidelines, including an 'API playbook' with more than 400 recommended APIs. Hong Kong has adopted a collaborative, non-legislative, approach to the development of open banking.

Australia, the UK and Europe are widely referenced comparator jurisdictions in any discussion on open banking. Appendix 1 provides some further background information on the establishment of open banking in those jurisdictions.



The approach to open banking in Aotearoa

Early industry work on open banking facilitated by Payments NZ was guided by the following five strategic objectives:

- > Simplification and consistency of delivery, enabled by a common API framework.
- > Increased speed to market.
- > Enhanced services, resulting in better outcomes for customers.
- > Simplified partnering, making it easier for banks and third parties to partner.
- > An optimal governance framework, providing clear and efficient governance while allowing for bank controls to remain in place for access to customer data.

That early work confirmed the industry's interest in and commitment to open banking and resulted in Payments NZ launching the API Centre in May 2019.

The centre lets API Providers¹⁵ and Third Parties¹⁶ (collectively Standards Users) decide on the specific delivery models and commercial arrangements required to provide consumers with more convenient ways to make and receive payments and to share account data. Among other things the centre:

- > Develops, maintains, and publishes common payment-related API standards.
- > Administers a development pipeline, in conjunction with the industry, identifying high value use cases to support new standards and improvements to existing standards.
- > Manages the versioning and lifecycle of API standards from creation to expiry.
- > Drives standards adoption and collaboration.
- > Provides industry with digital tool sets and services and a limited partnering framework.
- > Offers balanced and open governance so a wide range of voices from across the ecosystem can be heard.
- > Sets operational and performance standards.
- > Provides customer standards for obtaining consent, and best practice customer experience guidelines.

¹² Shifting from Open Banking to Open Finance (oecd-ilibrary.org)

¹³ National Data Strategy - GOV.UK (www.gov.uk)

¹⁴ PSD2 Review Consultation Reply - Open Banking Exchange

¹⁵ API Providers are financial institutions that issue bank accounts to their customers.

¹⁶ Third Parties are organisations that want to use standardised API endpoints provided by API Providers.

The centre's vision is to enable industry to deliver innovative API-based services to support New Zealanders' financial wellbeing. Its service model is founded on:

- > Taking an innovation first approach.
- > Being market driven.
- > Being industry-led.
- > Being inclusive and open.
- > Allowing for distributed delivery.

The open banking ecosystem led by the centre now comprises over 260 Community Contributors¹⁷ and 24 Standards Users, made up of 7 API Providers and 17 Third Parties. The centre has overseen more than four years of ecosystem and standards design, over 100,000 hours of effort, and significant investment of time and money through our API Providers, Third Parties, and Community Contributors.

The centre is governed by the API Council which represents both API Providers and Third Parties in equal proportions by voting power, along with three independent members and an observer from the Ministry of Business, Innovation and Employment (MBIE). The council makes decisions by a majority (not consensus) to ensure no party can hold veto power. It makes recommendations to the Board of Payments NZ, which determines whether those recommendations are consistent with the objectives of the centre.

This approach to open banking is part of an industry-endorsed Payments NZ strategy, to collaborate on the common elements and capabilities that will deliver a modern and innovative payments system. It differs, for example, from the approach taken in:

- > The UK, where the CMA required the nine largest current account providers to create and pay for the implementation entity – the OBIE – and to appoint an implementation trustee, approved by the CMA to oversee progress.
- > Australia, where open banking forms part of a broader legislative framework around consumer data rights.

While implementations differ across jurisdictions, a common theme is providing greater consumer choice, greater competition, security, transparency and innovation in payments and related services. Against that backdrop the centre has made considerable progress in setting strong foundations since its launch.

It has developed a customer trust framework built around a set of customer-focused principles which give confidence in how customer data is accessed and shared, and how customers can initiate payments through Third Parties. The framework has leveraged notable international customer developments and feedback received from Standards Users and Community Contributors.

The centre has honed its skills in standards management. Standards management needs to provide ideation, prioritisation (desirability, viability, and feasibility), design, consultation and feedback, problem resolution, delivery, and ongoing mandates for implementation and versioning. Delivering value for the open banking ecosystem requires those standards to evolve in a sustainable, coordinated, and iterative way and in a customer-centric manner over a life cycle.¹⁸

The centre has been working with our Standards Users to strengthen our compliance mechanisms. We have recently used those to set a minimum open banking implementation plan for our five largest API Providers.¹⁹ Once these five API Providers are live with the same version of our standards, it will represent coverage of more than 90% of all consumer bank accounts in Aotearoa.

We have also been focused on supporting new product development in the ecosystem. We have developed and implemented a proof-of-concept framework for API Providers and potential Third Parties to live prove and test their customer propositions.

Partnerships between API Providers and Third Parties are based on bilateral commercial arrangements. The centre supports this with its template bilateral agreement and due diligence service. Several bilateral partnerships have been formed between API Providers and Third Parties which means our API standards are being used to underpin a range of customer propositions in the market.

The digital infrastructure developed by the centre for open banking is already making a valuable contribution to the vision for a digital future in Aotearoa. This will ensure our people, communities, economy and environment are flourishing and prosperous in the digital era.²⁰ Achieving that vision requires three interconnected themes to be realised:

- > Mahi Tika: Trust.
- > Mahi Tahī: Inclusion.
- > Mahi Ake: Growth.

Specifically, the efforts of the centre will help ensure:

- > Ongoing dependable and secure provision of digital services as they relate to payments (Mahi Tika).
- > The overwhelming majority of people should be able to access the benefits of digital payments technology (Mahi Tahī).
- > Aotearoa has a broad base of digitally enabled businesses and vibrant international connections (Mahi Ake).

Recently the Government announced it intends to proceed with legislation which would provide consumers with a consumer data right and would see the industry-led open banking ecosystem operate within a new statutory framework.²¹ In sections 2 and 3 we provide further commentary on the proposed legislation and what we consider is required to achieve 'just right regulation'.

In summary

Data is the lifeblood of the digital economy. Leveraging that data has the potential to unlock countless opportunities for economic growth, innovation, greater consumer and citizen engagement and better decision making.

Open banking is one part of a continuum where there are complementary and overlapping growth stages of open data ecosystems. It is one area where a systematic focus has been brought to how consumer data can be shared in a secure, consistent, and consent-based manner.

The concepts that underpin open banking, irrespective of how it is deployed, are data portability (consumers should be able to share their data freely with whomever they choose), consent (consumers need to explicitly consent to such sharing) and specific usage (consumer data that is shared may only be used for pre-agreed purposes). These principles could be applied to sectors other than banking, such as health care, where consent-based data sharing could make it easier to move patient records between providers, to designate caregivers and to authorise third parties to have access to personal information for highly specific reasons.

The centre has been instrumental in the development of the supporting technology infrastructure in the form of common standards and digital tool sets to enable Aotearoa to grasp the opportunities associated with open banking. When coupled with the right regulatory framework the progress achieved by the centre to date can be accelerated to produce a best-in-class open banking ecosystem.

Key takeouts

- > Data may help address some of the most significant social and economic challenges that lie ahead.
- > Open banking is one area where a systematic focus has been brought to how consumer data can be shared in a secure, consistent and consent-based manner.
- > Open banking implementations differ across jurisdictions but are underpinned by ideas of greater consumer choice, greater competition, and improved security, transparency and innovation in payments and related services.
- > The principles that underpin open banking could be applied to sectors other than banking, such as health care, energy and finance.
- > The digital open banking infrastructure developed by the centre is based on best-in-class developments in the UK and is already making a valuable contribution to the vision for a digital future in Aotearoa.

¹⁷ Community contributors are interested parties, who are not yet ready to become a Third Party.
¹⁸ The standards may be technical, operational (including security standards and non-functional/performance standards) or customer standards.
¹⁹ Minimum Open Banking Implementation Plan | API Centre (paymentsnz.co.nz)
²⁰ The Digital Strategy for Aotearoa | NZ Digital government

²¹ Executive Summary: Unlocking value from our customer data | Ministry of Business, Innovation & Employment (mbie.govt.nz)



2.

A highly successful open banking ecosystem



Introduction

Over the past four plus years since the centre was launched, we have given considerable thought to what a highly successful open banking ecosystem would look like and the outcomes it should deliver for 'NZ Inc'.

In this section we outline those ecosystem attributes as part of a broader customer and product data framework, of the kind envisaged in the Bill and the outcomes NZ Inc should expect when that open banking ecosystem has matured.

Attributes

We think it is helpful to describe the attributes of a highly successful ecosystem from the perspective of:

- > Framework and governance.
- > Customer centricity.
- > Access.
- > Standards.
- > Digital identity.

Framework and governance

A highly successful open banking ecosystem would combine sector-led delivery with regulatory oversight. That combination would mean open banking exists in a sweet spot where we can ensure speed to market of common standards and digital tool sets and sustainable and viable business models, while ensuring risk and safety are appropriately managed.

The ecosystem should be open and inclusive and include both representation and the rangatiratanga of Māori. Those involved in governance need to be able to prioritise ecosystem needs in a way that is fair and equitable to both current and potential future ecosystem participants and to have a mechanism to set an adequate funding base to grow the ecosystem over time.

Customer centricity

A focus on customer-centricity allows end users to be increasingly in control of their finances and able to ensure their needs can be satisfied at anytime, anywhere and on any device.

Significantly the 'customer and consent first' paradigm means customers have confidence their data is being shared with third parties in ways that they want, and which will benefit them, including delivering:

- > Greater choice and convenience in the selection of products and services to meet their financial needs.
- > Value propositions that deliver savings, such as being able to find the most suitable rates on loans and mortgages.
- > Inclusion and improved financial literacy through access to budgeting tools and education platforms that are highly personalised, and which consider the circumstances facing the individual.

While open banking offers a broad array of new innovative products and services it also introduces new risks and challenges, such as technical errors or disputes between different parties involved in an open banking transaction. An unrelenting focus on customer-centricity should ensure there is ready access to a customer redress and dispute resolution framework.

Drawing on the UK experience, it seems preferable to draw on existing redress and dispute resolution frameworks rather than to build a bespoke framework that deals with open banking specifically. Whatever approach is adopted, the focus should be on ensuring customers are always treated fairly and impartially and receive the best possible outcome should they raise concerns or need to seek redress or resolution if things go wrong.

Access

One of the significant challenges for open banking is striking the appropriate balance between ease of entry into the ecosystem while maintaining security, protection, and consumer trust in the ecosystem.

There are two important concepts at play in a highly successful ecosystem – conformance and accreditation. Both conformance and accreditation are a means for communicating trust both to other participants in the ecosystem and to consumers.

Conformance might extend to matters of security, consent, or functionality. Conformance is proven first, before accreditation is given. Then, conformance is monitored on an ongoing basis, to ensure trust and ongoing compliance with the accreditation granted. The conformance obligations should vary according to the different roles being performed by various ecosystem actors.

Accreditation is effectively a seal of approval that confirms an entity has the competencies necessary to adhere to ecosystem rules and is granted rights commensurate with its accredited competencies. It is not a ‘one and done’ event. Accreditation should be undertaken by a body with the necessary expertise and competence to perform the required assessment and should be done in a way that is:

- > Transparent - with clear guidelines, criteria, and procedures.
- > Independent – to maintain objectivity and credibility in evaluating the entity's continued compliance.
- > Based on relative risk - focused on areas of highest risk and significance.

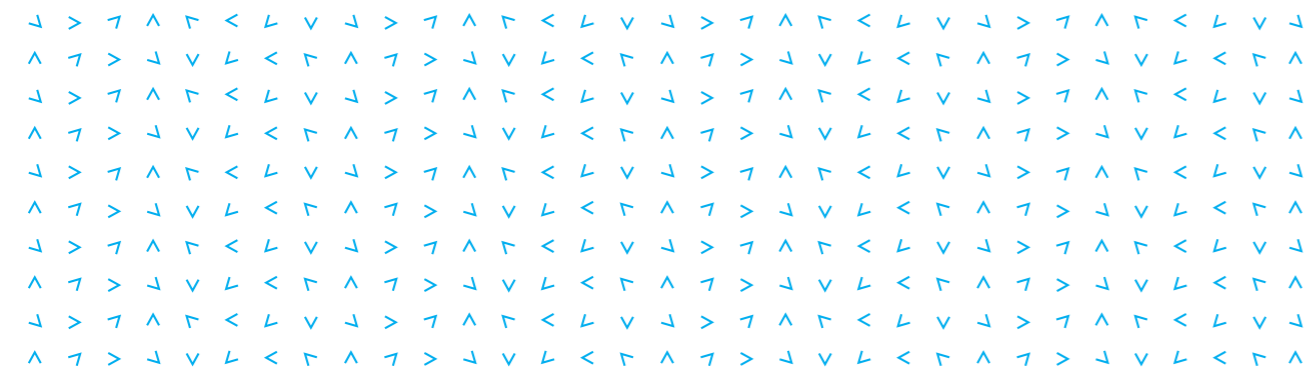
Further, accreditation should involve relevant stakeholders, such as industry representatives and consumer groups. Engaging stakeholders can provide valuable insights, increase transparency, and help identify areas for improvement. The accreditation framework should also allow for a well-defined process for appeals and complaints, allowing the entity to challenge the accreditation decision or to raise concerns about the process.

Standards

Open banking ecosystem standards ensure interoperability, security and innovation. They may extend to technical, operational or customer matters.

Given their critical role, standards need to be developed and managed over a lifecycle. The lifecycle approach should be industry-led. This ensures the greatest chance to deliver value for the ecosystem because:

- > Standards can evolve in a sustainable customer-centric manner;
- > New standards can be introduced at the pace technology and customer-focused use cases allow; and
- > Existing standards can be updated in a systematic manner.



Digital identity

In the sprawling landscape of the digital world, the concept of identity has transcended traditional boundaries, evolving into a complex web of interconnected data points, roles and permissions.

At the heart of this evolution lie two essential pillars: authorisation and authentication. These twin guardians of digital identity work in tandem to secure and manage our digital interactions, reflecting the intricate dance between trust and access. A robust digital identity ecosystem integrates authorisation and authentication seamlessly, providing a multi-layered shield against unauthorised access.

Authentication, the initial gateway into the digital realm, verifies a user's claimed identity. It ensures that individuals are who they profess to be before granting them access to protected resources.

Yet, authentication alone is not enough to safeguard digital domains. This is where authorisation steps in. Once a user's identity is confirmed, authorisation dictates the scope of their access privileges. It's the digital equivalent of handing out keys to different rooms within a house – or different services within an open banking environment.

Digital identity, trusted digital data, and secure digital interactions are critical to the evolution of both the open banking ecosystem and the wider payments ecosystem. In short, “digital identity is a crucial enabler for integration into the digital economy and consumers' lives, to the areas where consumers want banking to take place.”²² The same is true generally across consumer interactions in the rest of the digital world.



²² 10_12_2021_digitalpromise_cta.pdf (iif.com)

Outcomes for 'NZ Inc'

In thinking through the outcomes 'NZ Inc' could expect from a highly successful open banking ecosystem, it is useful to turn to Europe and the UK. These are two jurisdictions with a significant track record in open banking and in which clearly stated outcomes for open banking were set at the outset.

At the time PSD2 was introduced The European Commission noted one of its goals was to:

"Give consumers more and better choices when it comes to retail payments... [and] consumers would be able to manage their personal finances more efficiently through applications."²³

In the UK, when consulting on the implementation of PSD2, the Financial Conduct Authority noted that:

"As a result of these regulatory initiatives²⁴, coupled with technological and market developments, we expect to see better informed and engaged customers that find it easier to shop around and have an enhanced banking experience."²⁵

That said, we know from talking to our peers in other jurisdictions that open banking will not be an overnight success story. By way of example in the UK:

- > Over 7 million consumers and businesses, of which 750,000 are SMEs, use open banking enabled products and services. Open banking payments have more than doubled, with over 68 million open banking payments in 2022 (up from 25 million in 2021) and over a billion successful API calls a month (since May 2022).²⁶
- > HM Revenue & Customs note their adoption of open banking had saved the public purse over £500k in bank fees with more than £10.5bn in tax collected to date through open banking payments, demonstrating the efficiencies this new capability can deliver.²⁷

However, these outcomes did not happen quickly and open banking in the UK is still regarded by some as only a qualified success.²⁸ More recently they have started to see the exponential results that were predicted in the late 2010s.

From a 'NZ Inc' perspective the success of open banking should be judged initially by the growth of the ecosystem. In that regard, some possible relevant measures would include:

- > More partnerships between API Providers and Third Parties.
- > A visible growth trajectory in the number of open banking transactions.
- > An increasing range of differentiated and tailored open banking products and services on the market.
- > More engaged and empowered consumers.
- > On-going improvements in API response times.
- > Alignment between API Providers on the future development of APIs to support new use cases.
- > Developers reporting on-going improvements in time to market to service new use cases.
- > The expansion of open banking towards open finance, including not only adjacent products, such as savings and loans, but also investments and KiwiSaver accounts.

In summary

Open banking promises to put the power back in the hands of the consumer by allowing them to gain control over their banking and financial experiences in ways previously unimaginable.

An open banking ecosystem, which has the backstop of appropriately-sized well-directed regulatory oversight, and can draw on a highly interoperable digital identity system, will promote confidence in the use of open banking products and services and in open data more broadly.

Building a successful open banking ecosystem for Aotearoa is an evolution, not a revolution. It takes time to:

- > Develop and implement the necessary open banking frameworks.
- > Ensure those frameworks form part of an overarching approach to payments modernisation in Aotearoa.
- > Determine how an industry-led open banking ecosystem should integrate with a future statutory ecosystem of the kind envisaged by the Bill.
- > Ensure customer outcomes and consent are at the core of ecosystem activity.
- > Convince consumers there is a clear benefit from sharing their data in a trusted and secure manner.

We will know open banking is delivering for Aotearoa when we can unequivocally answer 'yes' to the following questions:

1. Do consumers have more and better choices to choose between when it comes to payments?
2. Are consumers better informed and engaged?
3. Are disadvantaged and marginalised consumers also benefiting from increased choice?
4. Are consumers better able to shop around for financial services that better fit their needs?
5. Do consumers have enhanced banking and payments experiences?
6. Do customers have confidence that their financial data is protected and being used responsibly?

The centre is well advanced in completing the groundwork necessary to ensure those questions can be answered in the affirmative.

What is now required is to ensure the efforts of the centre are matched with regulation that fully embraces the sector led delivery model constructed to date. In the next section of our report, we explore the importance of right-sized regulation to help bring open banking in Aotearoa to market.

Key takeouts

- > A highly-successful open banking ecosystem would combine sector-led delivery with regulatory oversight.
- > It would be underpinned by a 'customer and consent first' paradigm so customer centricity is at the core of the ecosystem.
- > It would strike the appropriate balance between ease of entry into the ecosystem while maintaining security, protection, and consumer trust.
- > It would have an industry-led standards development and management process that takes a lifecycle approach to standards.
- > A role for digital identity would be embedded in the ecosystem.
- > Building a successful open banking ecosystem for Aotearoa is an evolution not a revolution.
- > The efforts of the centre could be accelerated through regulation that fully embraces the sector led delivery model that is already in operation.

²³ Frequently Asked Questions: PSD2 (europa.eu)

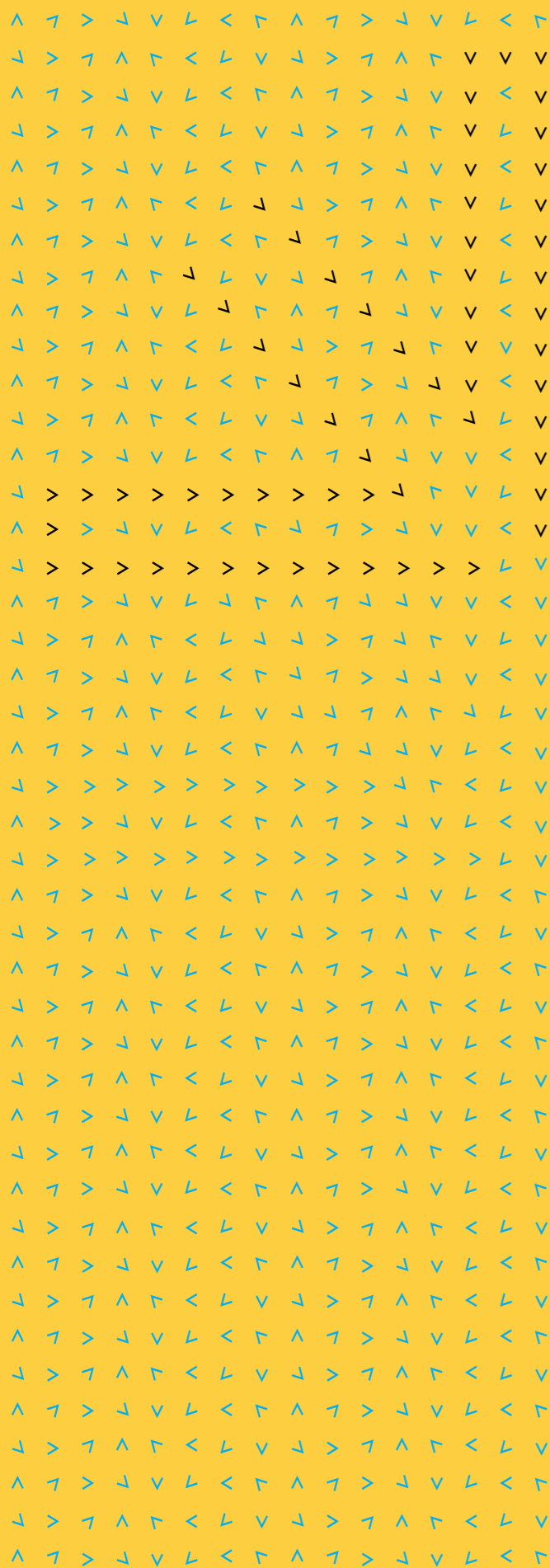
²⁴ The initiatives are a combination of the CMA's retail banking order and the implementation of PSD2

²⁵ CP17/11: Implementation of the revised Payment Services Directive (PSD2): draft Approach Document and draft Handbook changes (fca.org.uk)

²⁶ Recommendations for the next phase of open banking in the UK (publishing.service.gov.uk)

²⁷ SWG-Report-The-Future-Development-of-Open-Banking-in-the-UK-Feb-2023.pdf (openbanking.org.uk)

²⁸ Open_Banking_Report_Final.pdf (ulsterbank.co.uk)



3.



Bringing open banking to market



Introduction

A dilemma facing regulators and policymakers is whether to rely on market incentives to bring open banking to market or intervene and use legislative or regulatory mandates to require banks and non-bank entities to work together using standardised interfaces.

In this section of our report, we briefly explore the different pathways for bringing open banking to market, set out the current regulatory framework in Aotearoa and explain how enabling legislation could be used to leverage the centre’s ecosystem experience and address the limitations of what the centre can achieve on its own, while also being able to respond to the emerging digital economy of the future.

Bringing open banking to market

In brief there are four main options for bringing open banking to market:²⁹

1. Legislative mandates – e.g., Australia through amendments to the Competition and Consumer Act (2010).
2. Regulatory directives – e.g., the order issued by the CMA in the UK that paved the way for open banking.
3. Voluntary regimes scoped by a regulator – e.g., Singapore was the first country in ASEAN to publish guidelines on open banking and to outline a plan for banking data to be made available through open APIs back in 2016. However, there is no mandatory requirement for banks in Singapore to open their data, systems, and services³⁰.
4. Industry initiatives – e.g., the API Centre in Aotearoa.

Each of those options carries a different set of benefits and costs.

Legislative and regulatory mandates:

- > Should help ensure compliance but can be time consuming to effect and have the potential to result in a relatively inflexible set of arrangements.
- > Risk unintended consequences, especially where there are overlapping or unclear boundaries between different regulatory instruments.
- > Can result in regulated entities doing only the bare minimum to meet the regulatory standard, which can impair ecosystem innovation.

The experience in both the UK³¹ and Australia³², where delays have been experienced at various points in their respective open banking journeys, illustrate that even powerful legislative and regulatory mandates do not guarantee a straightforward implementation of open banking. Additionally, we know from developments in the UK the mandate issued by the CMA is not seen as an enduring solution given the jurisdiction’s ‘smart data’ ambitions. A Joint Regulatory Oversight Committee (JROC) was established in the UK to take forward the development of open banking beyond the CMA order.

Voluntary regimes and industry initiatives can be quicker to stand up but risk a lack of participation by all financial institutions which can mean the ecosystem does not fully catalyse and that some of the benefits of open banking are deferred.

In short, the downsides associated with bringing open banking to market via legislative or regulatory mandates need to be weighed against the possibility a voluntary or industry-led regime fails to make sufficient progress.

²⁹ [Regulating Open Banking 2023: A Snapshot But of Global Progress \(openbankproject.com\)](https://openbankproject.com)
³⁰ [Open Banking in APAC: Market-Led vs Regulator-Led Approaches - Fintech Singapore \(fintechnews.sg\)](https://fintechnews.sg)
³¹ [Six of the nine biggest banks have missed the government's Open Banking deadline \(newstatesman.com\)](https://www.newstatesman.com)
³² [Consumer data right exemptions register | ACCC](https://www.accc.gov.au)

Current regulatory settings in Aotearoa – open banking and more

As mentioned in Section 1, the centre has been the champion of open banking in Aotearoa since 2019. It has made significant progress in building an open banking ecosystem aligned with the concept of consumer data rights and in developing a trust framework, critical to the success of open banking. This has been achieved in the absence of regulation or legislation that speaks directly to open banking.

The release of an exposure draft of the Bill in mid-2023 signals a major change to the open banking landscape in Aotearoa.

The Bill aims to make it easier for individuals to share their information with trusted businesses once an individual has given their explicit consent. Individuals already have a right to access their personal information under the Privacy Act 2020, but this Bill will make it easier in certain circumstances.

The scope of the Bill potentially extends to the entire economy but will only be “switched on” for specific sectors and data types on a case-by-case basis. The government has signalled banking will be the first sector to have this consumer data right by way of designation.

The eventual passage of the Bill will add to an increasingly complex regulatory and policy landscape in Aotearoa. There are many developments afoot which intersect with open banking:

- > The Digital Identity Services Trust Framework Act has recently been passed into law which creates a statutory trust framework for digital identity services. Digital identity services will be used in digital interactions occurring in the open banking ecosystem and it is critical that open banking and digital identity services evolve in tandem to support different interaction options, and new business models and offerings.
- > The Bill may include extensions of privacy principles and new consideration of ethical data (or action) use which overlap with the Privacy Act.

- > The Government has introduced changes to the Anti-Money Laundering and Countering Financing of Terrorism Act (AML/CFT Act), following a Ministry of Justice-led review which concluded in 2022. Some of those changes require amendments to the AML/CFT Act, but a significant portion can also be made through issuing secondary legislation (e.g., regulations) or through operational enhancements. Going forward it will be important for open banking developments to reflect the changing AML/CFT landscape so AML/CFT obligations can be navigated with efficiency, accuracy, and enhanced security.
- > The Commerce Commission (the Commission) has recently announced a market study into retail banking which, among other things, references inadequate progress in certain aspects of open banking as suggestive of weak competition in the banking sector.³³ At this juncture it is not clear to what extent the Commission might consider the increased agency the Bill promises to provide to consumers as it conducts its market study.
- > The Commission has separately sought views on how it can better promote new payment options to allow consumers to make payments between bank accounts, and how it could use its regulatory tools to address potential barriers. The Commission has expressed a preliminary view that designation of the bank transfer network and subsequent use of its regulatory powers would create a more level playing field for new entrants to launch innovative options to make in-person bank transfers.³⁴
- > More broadly, The Retail Payment System Act enables the Commission to monitor and regulate the retail payment system for the long-term benefit of Aotearoa businesses and consumers. At this juncture it is unclear to what extent that legislation is likely to overlap with the activities of the centre and the open banking ecosystem.

The Bill is an aspirational statement of intent to empower consumers, unleash innovation in Aotearoa, and to increase competition across the economy. Once the Bill becomes law, the current industry-led open banking will operate within a broader statutory scheme giving New Zealanders greater control over their information by establishing a consumer data right. As primary legislation the Bill is very flexible, which opens several possibilities. For example, in the future it is feasible either the Minister or the Ministry responsible for the administration of the legislation could leverage the centre's security standards to make them economy-wide standards for all open data users.

What's required going forward?

While the centre has created a solid foundation for an innovative and dynamic open banking ecosystem in Aotearoa, we also recognise this ecosystem is not yet fully functional. For example:

- > API Providers have only recently committed to an implementation timetable to stand up the most recent versions of the Account Information³⁵ and Payment Initiation³⁶ standard.
- > The process for API Providers and Third Parties to partner is somewhat onerous and uncertain, and there are only a small number of successful partnering arrangements in place to underscore the potential of the new ecosystem.
- > Competition law settings have the potential to prevent the centre from delivering a broader suite of ecosystem benefits.

Industry-led progress achieved thus far could be built upon with the right type of regulatory oversight that comes from well directed enabling legislation. That legislation could be used to, among other things:

- > Confirm the legal basis for the ecosystem.
- > Target market enablement by regulating outcomes, as opposed to specifying detailed deliverables in either primary or secondary legislation.
- > Achieve coordination across the regulatory landscape so ecosystem actors have clarity as to what is required of them and when.



In our assessment, enabling legislation would reinforce that:

- > Each sector needs a single source for standards, tools and guidance for customer, operational and technical standards.
- > Where a sector has an accepted industry body it should leverage that body's governance arrangements and expertise to ensure compliance and alignment with that enabling legislation.
- > There are benefits from industry bodies and regulators working collaboratively to put outcomes first, to ensure common standards between sectors, and to identify where efficiencies can be gained across sectors. For example, by ensuring best practices for common security standards are shared.
- > There is the need for balance between the supervisory role of regulators and industry bodies to evolve standards and practice to meet market demands.
- > Where data, privacy and technology intersect the different regulators must work in concert with an overarching plan that is clearly communicated across the relevant sector.

We have concerns that, as currently drafted, the Bill does not fully embrace the strategic value already created by the centre and industry with a view to growing and further developing scalable and sustainable products and services for customers.

It is critical to get the Bill right because banking will be the only sector where the new legislation will regulate existing activity under the auspices of the centre. It is also important the legislation acknowledges ‘consumer data rights’ and how they might be used in the digital economy is still very much evolving. For example, the approach in the UK has changed from a narrow focus on banks to a much broader focus on smart data.

The following points illustrate two of our concerns about the Bill as currently drafted. In our view the Bill needs to:

- > Leverage the work of the centre to drive innovation and uptake.
- > Reflect the importance of standards that are market-led.

³³ Preliminary-Issues-paper-Personal-banking-services-market-study-10-August-2023.pdf (comcom.govt.nz)

³⁴ Retail-Payment-System-Payments-Between-Bank-Accounts-Request-for-views-paper-31-July-2023.pdf (comcom.govt.nz)

³⁵ The Account Information standard enables Third Parties, with the customer's consent, to access specific information relating to a customer's account held with an API Provider, such as a bank.

³⁶ The Payment Initiation standard enables a customer to set up and make electronic payments by connecting directly and safely from a website or app, through a Third Party to an API Provider.

Leveraging the work of the centre

Progress achieved to date could be accelerated if the Bill created the power to hold a designated sector accountable for delivering to outcomes. That means the progress Payments NZ has made by setting up the centre and delivering the first wave of new standards could be leveraged, accelerated, and sustained.

The centre has already been operating for over 4 years. During that time, it has developed a trust framework and open banking ecosystem aligned with the concept of consumer data rights. That trust framework is based on best-in-class security standards, informed customer consent, leading functional (technical) standards, operational rules, guidelines, and balanced ecosystem governance. Additionally, the centre is currently working with data experts in Māori data governance to understand how those concepts might be incorporated into our rules, standards, and practice.

Without a clear bridge between the current ecosystem and the proposed statutory scheme, there is a chance the gains made to date will not be capitalised on, at the cost of long-term market prospects.

Standards need to be market-led

Standards need to be market-led, with those standards evolving over a lifecycle in a sustainable, coordinated, iterative and customer-centric manner.

The Bill contains extensive provisions for making or enacting new standards. However, the ebb and flow of regulatory priorities will not always align with ecosystem priorities. A preferable approach would be to hold a sector accountable for all aspects of standards development and management including, implementing policies concerning versioning, standards governance, and overall efficiency of all processes surrounding the standards.

Holding a sector accountable for meeting the needs of the ever-changing market, keeping pace with security, and ensuring interoperability with other sectors is the best way of delivering value for the customer and product data ecosystem.

In short, regulation of standards, as opposed to holding a sector accountable for delivering and evolving those standards, could run counter to enabling an emerging open banking ecosystem where innovation can thrive for the benefit of Aotearoa.

In summary

Since establishment in 2019, the centre has delivered a world-class foundation for open banking in Aotearoa which reflects international best practice. We acknowledge there are limits to what the centre can achieve by itself. Enabling legislation has the potential to accelerate both market development and ecosystem progress. Drawing on lessons from the UK and Australia we think enabling legislation should be used to:

- > Create a clear bridge between the current industry-led open banking ecosystem and the new statutory ecosystem outlined in the Bill.
- > Empower the centre, as sector body, to deliver industry-led innovation while also providing a set of guardrails to ensure the sector keeps the promises made so the benefits of open banking are realised.

Such an approach would capitalise on the groundwork achieved so far and would leverage Payments NZ's long-standing experience in rules and standards development to produce:

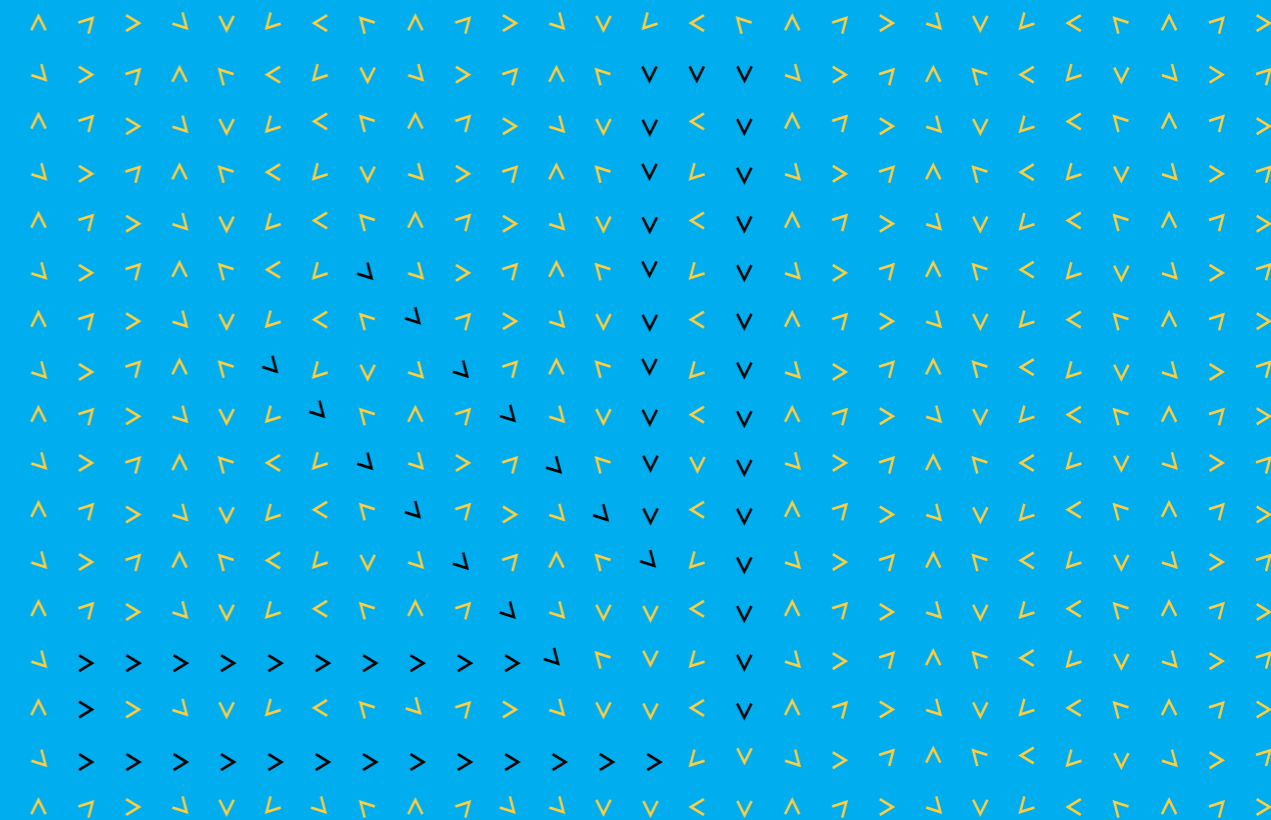
- > A framework of industry practices and API standards which reflect the needs of the Aotearoa open banking ecosystem, and which are based on international best practice from the UK.
- > A trust framework and customer experience guidelines that emphasise the importance of the customer in all aspects of open banking.
- > A market driven standards development process and standards lifecycle.
- > A standards implementation plan which provides greater industry certainty, enabling investment in new and innovative products and facilitating greater customer choice.
- > A governance process which reflects the voice of industry.

It is also critical any enabling legislation that concerns open banking dovetails with other regulatory and policy developments. Making sure we have a 'joined up' regulatory and policy framework will create additional opportunities in open banking and will avoid further regulatory burdens and duplication.

Importantly, it will help the centre play its role in delivering a progressive and innovative open banking ecosystem which fulfils its potential and plays its role in contributing to the vision for the future of payments outlined by the Council of Financial Regulators – Kaunihera Kaiwhakarite Ahumoni (CoFR): "Reliable and efficient payments that better meet the evolving needs of all New Zealanders".³⁷

Key takeouts

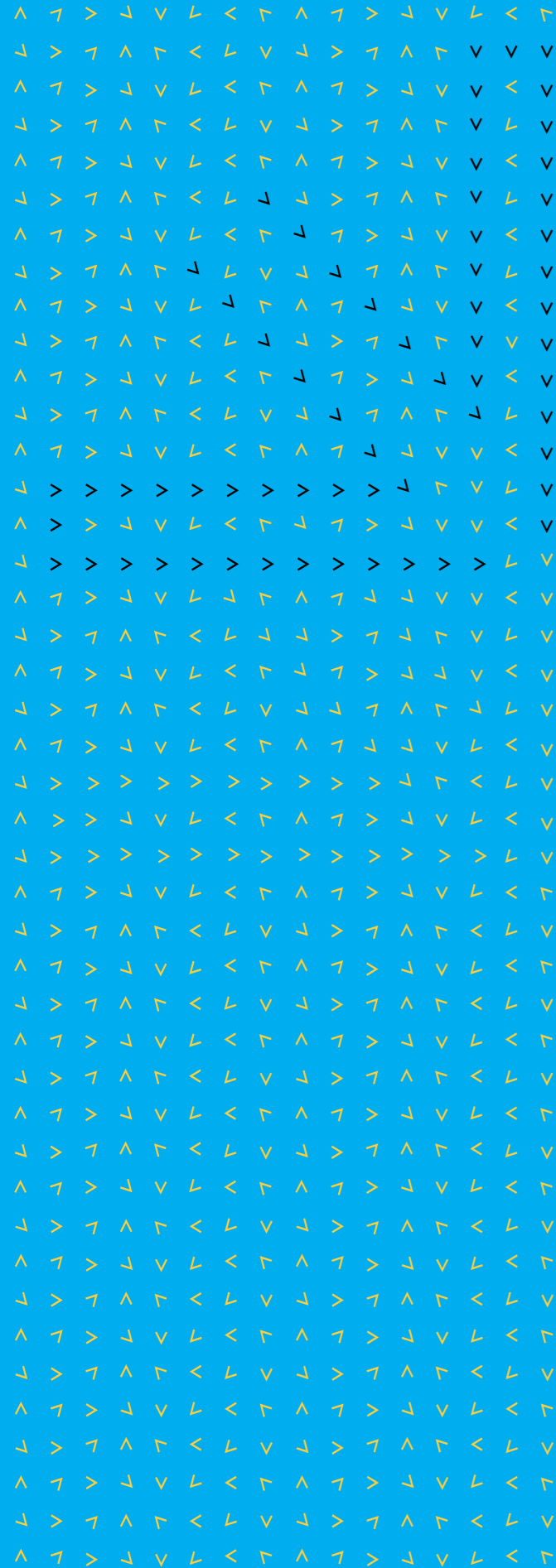
- > The risks associated with bringing open banking to market via legislative or regulatory mandates need to be weighed against the possibility a voluntary or industry-led regime fails to make sufficient progress.
- > The centre has delivered a world-class foundation for open banking in Aotearoa which reflects international best practice.
- > Industry-led progress achieved could be built upon with the right type of regulatory oversight that comes from well directed enabling legislation.
- > Any enabling legislation should create a clear bridge between the current industry-led open banking ecosystem. It should empower the centre to deliver industry-led innovation while also providing a set of guardrails to ensure the sector keeps the promises made.
- > It is imperative Aotearoa has a 'joined-up' regulatory and policy framework on open banking and allied developments.



³⁷ Financial regulators set vision for New Zealand payments landscape | Kaunihera Kaiwhakarite Ahumoni - Council of Financial Regulators (cofr.govt.nz)



4. Looking to the future



Introduction

Open banking is much more than the successful implementation of common API standards for Account Information and Payment Initiation.³⁸ In our view open banking is the first step in a journey towards smarter use of data right across the country and eventually between Aotearoa and other jurisdictions.

In this section of our report, we examine a possible future for open banking. We begin by discussing some of the trends that will shape the future of financial services. We then look at lessons that can be drawn from two other jurisdictions, the UK and Australia, where the future of open banking has been the subject of considerable focus.

The future of financial services

The financial services sector is undergoing a profound period of change both globally and domestically. Some examples of that change include:

Artificial Intelligence (AI)

Harnessing AI can build a successful competitive advantage in financial services, allowing the achievement of operational efficiencies, increased business intelligence and customer insights and the design of new products and services which increasingly take a customer's personal preferences into account.

The implementation of real time payment systems

Internationally real time payment systems are increasingly the norm. They typically offer real-time interbank transfers, integrated data-rich information flows, instant payment confirmation notifications and support a wide range of competitive overlay services. The Reserve Bank has expressed a concern that the banking and payments industries in Aotearoa have fallen behind internationally in making real-time payments possible between accounts held at different banks.³⁹

The introduction of Central Bank Digital Currencies (CBDC)

Over 20 jurisdictions are running CBDC pilots.⁴⁰ In Aotearoa the Reserve Bank is currently exploring high level design options for a CBDC, and then costs and benefits.⁴¹

The development of private cryptocurrencies and stablecoins

Despite experiencing some significant challenges over the past 18 months, the private cryptocurrency and stablecoin market has continued to build momentum. Two large Australian banks have recently issued their own stablecoins.⁴²

Pressure to meet social licence expectations

The financial sector is increasingly being asked to respond to the calls for more inclusive capitalism where financial institutions help build collective prosperity across the community rather than focusing solely on shareholder returns.

Increased duty of care obligations

These range from preventing customers from taking on borrowings they cannot afford to service, to making consumer-oriented disclosures before customers buy, to protecting customers from being exploited by scammers. In Aotearoa, the latter issue has received significant media and political attention of late.⁴³

Climate activism

Internationally, financial institutions have come under pressure for funding fossil fuel development. Increasingly financial regulation is becoming more closely intertwined with addressing climate change targets.⁴⁴ In Aotearoa, the CoFR has identified climate change as a priority area of focus and has a comprehensive work programme directed at this.⁴⁵

The fintech challenge

Around the globe fintechs are making inroads into the world of traditional financial services. While fintechs initially promised to significantly disrupt the banking industry in particular, the pace of transformation, while evident, has been slower than thought.

In part that is because banking is heavily regulated and consumers can be reluctant to move away from an institution which has provided services to them for many years. A material portion of regulatory reform of the past decade has been concerned with 'opening up' banking to allow fintechs to compete on an even footing with banks. Open banking is one leading example of this trend where open data access has the potential to support market developments leading to better outcomes for consumers.

38 Payment initiation is a specific type of 'action initiation'.
39 Payments - Reserve Bank of New Zealand - Te Pūtea Matua (rbnz.govt.nz)
40 Central Bank Digital Currency Tracker - Atlantic Council
41 Central bank digital currency - Reserve Bank of New Zealand - Te Pūtea Matua (rbnz.govt.nz)
42 National Australia Bank's stablecoin, the AUDN, deployed for instant cross-border payments (afr.com)
43 Banks are failing to protect customers from scams | Stuff.co.nz
44 Activists are looking to banking regulations to combat climate change - The Washington Post
45 Climate-related risks | Kaunihera Kaiwhakarite Ahumoni - Council of Financial Regulators (cofr.govt.nz)



Thinking about the future – open banking

The experiences of the UK and Australia provide useful insights when thinking about the future of open banking.

The open banking journeys in the UK and Australia had similar objectives, such as increasing competition and putting control back in the hands of consumers. But, as signalled earlier in this report, those objectives were pursued in very different ways.

The UK mandated its largest nine banks (CMA9) to provide authorised entities with access to customer banking data via secure APIs.⁴⁶ In January 2023 the CMA announced the six largest banking providers had implemented all the requirements of the open banking roadmap with the remaining three set to do so in the near term.

Even though the UK has been something of a poster child for the success of open banking, the initiative is at a crossroads, with questions being posed about its future direction, scalability, and sustainability.⁴⁷ A key issue is how to ensure APIs continue to develop outside the regulatory minimum, especially where network effects and universal adoption are important.

As signalled earlier, to ensure continued momentum, the government and regulators set up the JROC to take forward the development of open banking beyond the regulatory perimeter established by the CMA.

The JROC has now outlined a vision for open banking. It requires the development of an ecosystem that, through industry action and strong regulatory direction, builds fair and proportionate commercial arrangements with a broad-based and equitably funded open banking entity. Delivering that vision rests on three priorities:

1. Establishing a sustainable and competitive footing for the ongoing development of the open banking ecosystem so it can grow beyond the current functionalities and bring further benefits to end users.
2. Unlocking the potential for open banking payments.
3. Adopting a model that is scalable for future data sharing propositions.⁴⁸

Variable recurring payments (VRPs)⁴⁹ provide a good illustration of the type of future issue that requires careful consideration and close coordination between regulators and industry in the UK as that ecosystem continues to develop and find a commercial footing. Open access to the VRP API for sweeping VRPs is mandated for the CMA9. Non-sweeping VRPs have not been mandated. Accordingly, the CMA9 are not obliged to provide these payment services. However, there are clearly opportunities for non-sweeping VRPs which could help businesses and consumers. The question that needs to be addressed is whether non-sweeping VRPs should be required by regulation, or be developed by the industry with regulatory support, or be an entirely commercial matter for industry to address.

46 The introduction of the Retail Banking Market Order 2017 (CMA Order), and the implementation of the Payment Services Regulations 2017 were the foundational developments in the UK deployment.
 47 SWG-Report-The-Future-Development-of-Open-Banking-in-the-UK-Feb-2023.pdf (openbanking.org.uk)
 48 Recommendations for the next phase of open banking in the UK (publishing.service.gov.uk)
 49 These are a payment instruction that lets customers safely connect authorised payments providers to their bank account to make payments on their behalf in line with agreed limits.



Contemporaneously, the UK is also pushing ahead with its smart data initiatives. It includes the establishment of a Smart Data Council, which will 'build on the success of open banking and spearhead measures in sectors like SME finance, energy and telecoms, increasing competition and putting more money in the pockets of consumers and small firms.'⁵⁰ The Council comprises key government departments, regulators, industry, and consumer groups. It will direct coordination and drive collaboration and knowledge-sharing across the key decision makers and stakeholders.

In contrast, Australia's point of focus from the outset was data sharing across the economy through its consumer data right regime.⁵¹ Open banking in Australia came about because the banking sector was the first sector to be designated under that regime. The idea there would be economy wide benefits from data sharing originated in a variety of reports over the past decade on the potential benefits of data sharing on competition and consumer choice.⁵²

Australia's open banking implementation via its consumer data right regime has been relatively slow, with the implementation of the regime across multiple sectors described as "enormous, complex and technically challenging".⁵³

That said, the consumer data right is an economy wide instrument rather than a banking specific initiative. The energy sector has now been designated.⁵⁴ This means in the future Australian consumers might start to benefit from cross-sectoral innovation opportunities. For example, consumers could manage cost of living pressures if they consented to the sharing of their banking and energy data to provide a household view of likely future energy consumption.⁵⁵

The expansion of the consumer data right into the Australian telecommunications sector has been paused, pending a strategic assessment towards the end of 2024 to inform future expansions and the implementation of action initiation.⁵⁶

An independent Statutory Review of the Consumer Data Right (the Review) was completed in 2022.⁵⁷ One of the purposes of the Review was to help inform the future direction of the regime.

The Australian Government is already progressing many of the Review's recommendations⁵⁸, noting that an investment of AUD \$88.8 million over two years will support the consumer data right in banking and energy, progress expansion to non-bank lending, progress the design of action initiation⁵⁹, deliver cyber security enhancements, and develop a trusted brand strategy that will support consumer confidence.

50 New Council launched to use the power of smart data (government-transformation.com)
 51 The CDR was established by The Treasury Laws Amendment (Consumer Data Right) 2019 by inserting Part IVD into the Competition and Consumer Act 2010.
 52 These include the 2014 Financial System Inquiry, the 2015 Harper Review of Competition Policy and the 2017 Productivity Commission Inquiry into Data Availability and Use.
 53 Statutory Review of the Consumer Data Right - Report (treasury.gov.au)
 54 Rollout | Consumer Data Right (cdr.gov.au)
 55 NAB-and-NatWest-Open-Banking-Whitepaper-2023.pdf
 56 Consumer Data Right rules - expansion to the telecommunications sector and other operational enhancements | Treasury.gov.au
 57 Statutory Review of the Consumer Data Right - Report (treasury.gov.au)
 58 Growing the economy | Budget 2023-24
 59 Action initiation, sometime referred to as 'write access', gives consumers the power to instruct accredited organisations to initiate actions on their behalf.

Across both the UK and Australia there is a growing understanding of the need for economy wide digital identity solutions that are highly interoperable. This is critical if these new ecosystems are to properly scale where cross-sectoral data sharing increasingly becomes the norm. In Australia, the Review concluded that delivering cross-sectoral use cases will require a method of consumer identification that spans different sectors and interactions, and which looks beyond the sector specific identity solutions currently in market.⁶⁰

Those organisations who end up controlling the digital identity landscape will have a considerable presence in the future digital economy. In some respects, this may turn into a footrace between big-tech and financial institutions as it relates to open banking.

Additionally, in a world where people are more mobile and trade in digital assets is growing in importance, a further challenge is how to enable cross-border use cases. For example, is it plausible that in the future a car rental company in Norway could verify customer identity in Australia and accept payments directly from an Australian bank?⁶¹ Unsurprisingly, cross-border interoperability faces several challenges. For example, different jurisdictions have different deployments of open banking and open/ smart data which means it may not be straightforward to transfer consented data across jurisdictional boundaries.

The idea that cross-border interoperability is likely to be important going forward can also be found in the joint 2019 Productivity Commission report “Growing the Digital Economy in Australia and New Zealand: Maximising Opportunities for SMEs”. That report recommended, among other things, joint trans-Tasman open banking standards development. It emphasises “at the very least, New Zealand could join in the development committee (for Australian open banking standards) as an observer”.⁶² That proposal was endorsed by the then Prime Ministers of both countries with officials directed to consider the Productivity Commission’s findings and proposed actions, including those that relate to digital financial services and open banking.

In summary

Open banking has delivered a range of benefits to date, including⁶³:

- > A consistent industry standard for accessing data.
- > Secure and customer-controlled data sharing.
- > Mandated user control (explicit consent).
- > New consumer-oriented features previously not possible.
- > More competitive marketplaces.

Looking ahead, the boundaries that exist between different sector specific data sharing arrangements are likely to become increasingly blurred. In the future we are less likely to talk about ‘open banking,’ ‘open finance’ or ‘open energy’. Increasingly the source of the data will be decoupled from its purpose, with consented data used for multiple purposes across both the private and public sectors.

Some of these future developments will be driven by national level plans to transform economies. For example, both Australia and Aotearoa have documented policies and actions to become modern, vibrant, and world-leading digital economies. Singapore has launched its smart city initiative and the UK its ‘smart data’ initiative. Other aspects of those developments will be driven by industry. Increasingly, AI will impact how this transformation unfolds. As open data becomes more diverse, AI models will be able to support multiple future novel use cases. It is clear AI will play a significant role in the data economy of the future.⁶⁴

The hallmark of the local approach to open banking to date has been to proactively deliver open banking standards and a governance model, developed by the industry for the industry. Aotearoa is on the cusp of regulation as outlined in the exposure draft of the Bill and, possibly, from the Commission’s assessment of how to promote new payment options that allow consumers to make payments between bank accounts.

Whatever regulatory framework emerges, it needs to be appropriately-sized for our ecosystem and to ensure:

1. It looks beyond open banking today and towards an open data future.
2. The benefits of innovation are accessible to everyone.
3. It is not implemented in a way that stifles consumer focused innovation.
4. There is opportunity for both regulated and unregulated standards to coexist, providing enhanced outcomes for customers and greater choice.
5. Consideration is given to both domestic and global interoperability.
6. There are strong incentives for effective collaboration between regulators and industry.
7. Digital identity is an integrated part of the framework.
8. It considers the possible impact of AI on open data.
9. It is coordinated with the other regulatory change programmes underway through the CoFR.

Key takeouts

- > Open banking is the first step in a journey towards smarter use of data right across Aotearoa and eventually between Aotearoa and other jurisdictions.
- > The boundaries between different sector specific data sharing arrangements are likely to become increasingly blurred.
- > Cross-sectoral use cases based on data sharing arrangements will require a method of consumer identification that spans different sectors and interactions.
- > The long-term success of the ecosystem hinges on having a clear vision for open banking and open data in Aotearoa with sector bodies to champion the achievement of that vision.
- > Any future regulatory framework for Aotearoa needs to be appropriately-sized for our ecosystem.

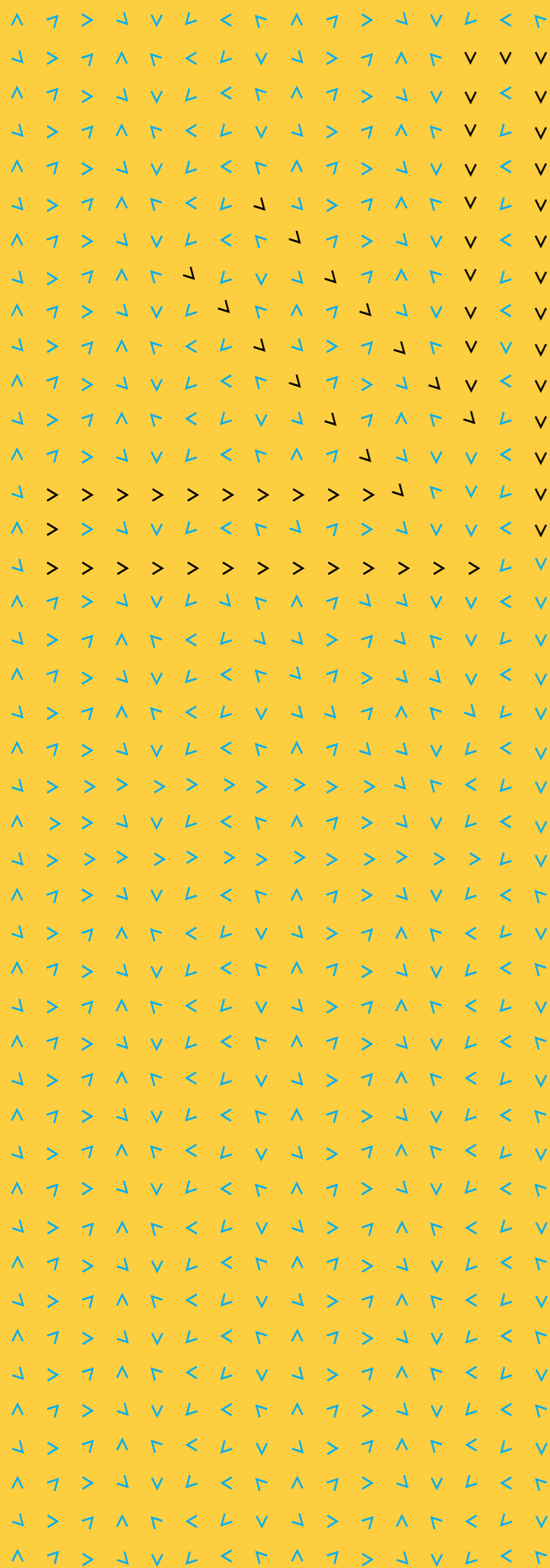
⁶⁰ Statutory Review of the Consumer Data Right - Report (treasury.gov.au)

⁶¹ Microsoft Word - OI DF Whitepaper Open Banking and Open Data - Ready to Cross Borders_Final.docx (openid.net)

⁶² Australian Productivity Commission and New Zealand Productivity Commission 2019, Growing the digital economy in Australia and New Zealand. Maximising opportunities for SMEs, Joint Research Report, page 99

⁶³ Microsoft Word - OI DF Whitepaper Open Banking and Open Data - Ready to Cross Borders_Final.docx (openid.net)

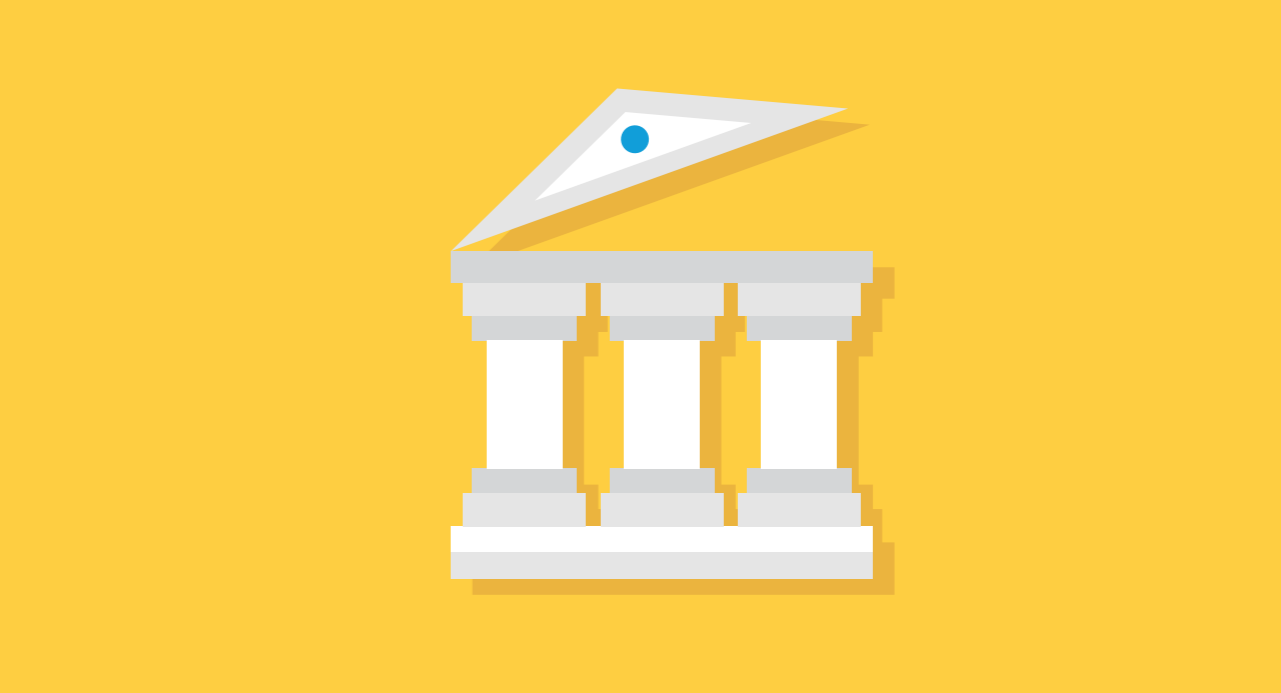
⁶⁴ Open data and AI: A symbiotic relationship for progress | data.europa.eu



5.



Conclusion



Open banking can be thought of as a sector specific test bed for safe and secure data sharing across the economy. It is one sector of the economy where policy makers have used momentum arising from the blurring of boundaries between the traditional banking sector and non-bank entities to design new data governance frameworks and protections. This allows banking data to be used and reused in a way that supports collaboration, innovation and improved outcomes for consumers and the economy as a whole.

The digital ecosystem enabled by open banking has immense potential to benefit consumers, banks, and other financial service providers, such as fintechs.

For consumers, it can lead to more innovative and customised financial products and services, increased convenience, and improved control over financial information.

For banks, it can increase customer engagement and loyalty, reduce costs, and create new revenue streams through partnerships with non-bank entities and fintechs.

For Aotearoa, it can lead to the development of new business models, offered by non-bank entities, and see finance embedded into other non-financial product developments. Additionally, open banking can play a foundational role in the country's ambitions to become a world-leading digital nation as part of a broader payments modernisation initiative.

To date, open banking in Aotearoa has been an industry-led initiative under the mantle of the API Centre. The establishment of the centre had its genesis in an industry decision that a framework for developing, managing, and governing common payment-related APIs should be a core feature of a future payments ecosystem which is dynamic, simple, and secure and which supports great customer experiences for New Zealanders.

The regulatory environment surrounding open banking is on the cusp of change. The Bill, when passed into law, will provide consumers with a consumer data right which would allow them to request access to and consent to the sharing of their data. It will create a statutory scheme to unlock the value of data for people and their businesses. In doing so it will:

“Help innovators in our economy create new products and services and increase competition. This in turn will benefit customers by leading to reduced prices, improved product offerings, and greater productivity. There are also opportunities to support by-Māori, for-Māori data initiatives, business-to-business applications, and improved accessibility and inclusion.”⁶⁵

Open banking will eventually be one of many sectors to be connected through the implementation of this new statutory scheme.

⁶⁵ [Unlocking value from our customer data \(mbie.govt.nz\)](https://mbie.govt.nz)

The Bill shows a commendable aspiration to empower consumers, to foster innovation, and to increase competition in Aotearoa. Given the significant economy-wide benefits from open banking, we agree enabling legislation is required for the centre and the open banking ecosystem to realise their full potential.

The enabling legislation needs to deliver proportionate coordinated regulation which fully embraces the strategic value already created by the centre and its ecosystem members to date. As it stands, the Bill has the potential to delay the further development of the ecosystem that has been created thus far. In doing so, it introduces uncertainty for API Providers and Third Parties which puts at risk the innovation first principle where market need has driven standards development and is expected to guide the evolution of the existing standards (and the creation of new standards) over time.

The new Digital Identity Services Trust Framework Act in Aotearoa will come into force on 1 July 2024. The Act is expected to foster the growth of a much larger digital identity network, facilitating the introduction of new providers. Prior to the Act coming into force, we expect the Trust Framework Rules will be published, which will apply to the provision of digital identity services.

Looking ahead a combination of the Act and the Bill needs to embed a role for digital identity in open banking, without which open banking will struggle to scale effectively and to deliver the promised benefits to consumers and the economy.

Any new statutory scheme needs to regulate not where open banking has been but where it is heading, which is towards an open data future. That open data future will be marked by considerations of domestic and global interoperability, and a greater role for artificial intelligence and interoperable digital identity systems.

Key takeouts

- > Open banking will eventually be one of many sectors to be connected through the implementation of a new statutory scheme.
- > That statutory scheme needs to deliver proportionate coordinated regulation which fully embraces the strategic value already created by the centre and its ecosystem members.
- > Regulation needs to be focused on where open banking is heading.
- > Our open data future will be marked by considerations of domestic and global interoperability, and a greater role for artificial intelligence and interoperable digital identity systems.

Appendix

Brief explanation of arrangements in Australia, UK, and Europe

Australia

Australia's consumer data right regime was enacted by the Treasury Laws Amendment (Consumer Data Right) Act 2019, which inserted a new Part IVD into the Competition and Consumer Act 2010.

The enabling legislation sets out the role, functions and powers of Treasury, the Australian Competition and Consumer Commission, the Office of the Australian Information Commissioner, the Data Standards Chair, and the Data Standards Body and outlines the overarching objectives and principles for the consumer data right.

The Act also gives the Minister the power to designate a sector of the Australian economy to be subject to the regime, and to make consumer data rules.

A sector is designated by legislative instrument, which specifies the broad classes of data subject to the regime and the class or classes of persons who hold the designated information (the data holders).

The requirement to disclose data emanates from the Competition and Consumer (Consumer Data Right) Rules 2020 (the rules), which provide the framework for how the consumer data right operates in a particular sector. The rules have been developed to apply universally across all sectors of the economy to the extent possible, with sector-specific provisions and modifications catered for in sector-specific schedules.

The technical standards, made by the Data Standards Chair on the advice of the Data Standards Body, specify how the data holder will comply with the requirements of the rules.

United Kingdom

Open Banking was initiated in 2017 as part of a package of remedies by the CMA to increase competition in the provision of retail banking services. As part of that package the CMA required the nine largest current account providers in Great Britain and Northern Ireland (the CMA9) to create and pay for an implementation entity (the OBIE) to implement open banking.

The Payment Services Regulations 2017, which implemented the PSD2 in the UK, developed open banking even further.

Since the launch of open banking and the establishment of the OBIE, regulators have taken steps to improve and strengthen the open banking governance arrangements and to prepare for the future of open banking now its implementation phase has been largely completed. One of the important steps in preparing for that future required the establishment of a JROC to build on the success of open banking.

The JROC has made a series of recommendations covering five themes:

- > Levelling up availability and performance;
- > Mitigating the risks of financial crime;
- > Ensuring effective consumer protection if something goes wrong;
- > Improving information flows to third party providers and end users; and
- > Promoting additional services, using non-sweeping variable recurring payments as a pilot

The JROC also sets out its vision for the open banking future entity, including the next steps which need to be taken in designing it. There will be a transition from the OBIE to the future entity which will build on the significant progress made to date.

Europe

Two developments have significantly shaped the open banking landscape in Europe.

The first development is The Revised Payment Services Directive (PSD2). Its objectives were to:

- > Contribute to a more integrated and efficient European payments market;
- > Further level the playing field for payment service providers by including new players;
- > Make payments safer and more secure; and
- > Enhance protection for European consumers and businesses.

PSD2 represents an important step towards a Digital Single Market in Europe. All Member States were required to implement PSD2 as national law by 13 January 2018. PSD2 covers the following services:

- > Payment initiation services;
- > Account information services; and
- > Issuance of card-based payment instruments by third-party payment service providers requesting confirmation of the availability of funds.

PSD2 applies to all EU member states, incorporated in their own national laws. It gives customers the ability to grant third parties read and write access to their banking data via open APIs. This means third parties can see and use customer banking data and make payments on behalf of the customer. Although open banking existed before PSD2, it took place in a largely unregulated environment. PSD2 gave open banking a stable regulatory framework.

Regulatory technical standards have been issued on the use of strong customer authentication and the provision of a standardised and reliable access interface to payment accounts (i.e., using an API) which makes it possible to identify third-party payment service providers in a secure way and secures all related communication between all parties involved.

The second development is the General Data Protection Regulation (GDPR). The GDPR enforces stronger data security and privacy protections for personal data. EU member states have been required to implement the GDPR via their own national law.

Glossary

Anti Money Laundering and Countering Financing of Terrorism Act 2009

Legislation which is concerned with detecting and deterring money laundering and the financing of terrorism.

API Providers

Financial institutions that issue bank accounts to their customers.

Application programming interface (API)

A set of defined rules that enable different applications to communicate with each other.

Artificial Intelligence (AI)

A set of technologies that enable computers to perform a variety of advanced functions, including analysing data and making recommendations.

ASEAN

An abbreviation for the Association of Southeast Asian Nation; a political and economic union in Southeast Asia.

Central Bank Digital Currencies (CBDC)

Digital money issued by a central bank.

Commerce Commission

The primary competition, fair trading, consumer credit and economic regulatory agency in Aotearoa.

Community Contributors

Interested parties, who are not yet ready to become a Third Party.

Competition and Markets Authority (CMA)

An independent non-ministerial department promoting competitive markets and tackling unfair market behaviour in the UK.

Customer and Product Data Bill (the Bill)

A Bill expected to be introduced to the House to the Government's decision to establish a consumer data right in Aotearoa.

Digital Identity Services Trust Framework Act 2023

Legislation which establishes a legal framework for the provision of secure and trusted digital identity services for individuals and organisations and establishes governance and accreditation functions which incorporate te ao Māori approaches to identity.

European Commission

Helps to shape the European Union's overall strategy, proposes new EU laws and policies, monitors their implementation, and manages the EU budget. It also plays a significant role in supporting international development and delivering aid.

Financial Data Access (FIDA)

A legislative proposal from the European Commission on financial data access, extending the obligation to provide access to financial data beyond payment account data.

Joint Regulatory Oversight Committee (JROC)

A committee of regulators and policy agencies charged with supporting the continued growth of open banking in the UK for the benefit of consumers and businesses. Full membership of the JROC is drawn from the CMA, the Financial Conduct Authority, the Payment System Regulator and HM Treasury.

Open Banking Implementation Entity (OBIE)

The delivery organisation for the required APIs, security and messaging standards that underpin open banking in the UK. Now known as Open Banking Limited.

Open Data Institute (ODI)

A non-profit organisation focused on how data can be used in ways that benefit people, companies, governments, and civil society.

Organisation for Economic Cooperation and Development (OECD)

An international organisation focused on public policy development.

Retail Payment System Act 2022

Legislation which promotes competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in Aotearoa.

Revised Payment Services Directive (PSD2)

A European regulatory instrument which supports innovation and competition in retail payments and enhances the security of payment transactions and the protection of consumer data.

Standards Users

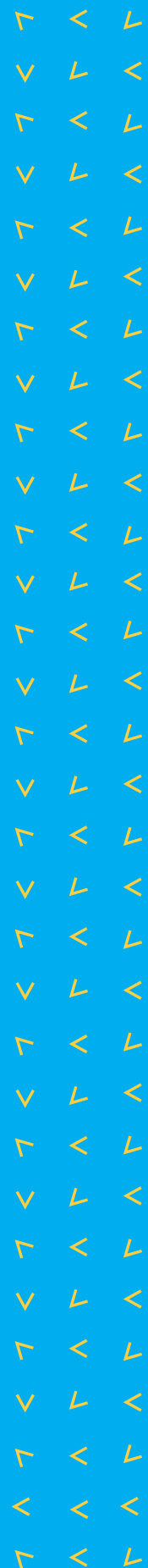
A collective term for API Providers and Third Parties.

Third Parties

Organisations that want to use standardised API endpoints provided by API Providers.

World Economic Forum

A not-for-profit foundation headquartered in Geneva, Switzerland which acts as international organisation for public-private cooperation.



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