TRUELAYER

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Call for Evidence: Data Protection and Digital Information (No. 2) Bill (Part 3)

About Truelayer:

TrueLayer is the UK's first and only UK-founded open banking unicorn (a private company worth over $1 billion). We are changing the way the world pays, replacing outdated, expensive card technology with cheaper, more convenient instant payments, enhanced using Open Banking data.

Our Open Banking products empower consumers and businesses by providing more secure payment methods. Our founders moved from Silicon Valley to London in 2016, attracted by the progressive regulatory regime, the abundance of tech talent, and the Government's ambition to establish the UK as the global capital for Fintech.

Since then, TrueLayer has become the largest Open Banking platform in the UK and we have expanded to over 16 countries. We have built the largest underlying infrastructure that connects bank accounts to innovative third parties using secure technology (application programming interfaces - APIs). More than 40% of the Open Banking traffic in the UK, Ireland and Spain uses TrueLayer's infrastructure.

Our foundational technology is a key contributor to the success of the UK's Fintech sector and it provides a vital platform for innovation. We help hundreds of businesses to provide their services, and if you have ever used Revolut, Nutmeg, Freetrade, or CreditLadder, the chances are you are using TrueLayer in the background.

The importance of 'Smart Data' schemes to innovation, growth and consumer empowerment

Smart Data schemes have the potential to spur huge amounts of innovation, competition and economic growth in the years to come. Open Banking is the first of these schemes to be successfully implemented in the UK for current accounts and credit card accounts in the financial services sector. By empowering consumers to share their financial data to third parties with informed consent - through secure APIs - it has transformed the way that people transact, save, borrow, invest and manage their money.

Open Banking alone is already worth over £4bn to the UK economy, and more than 7 million consumers and SMEs in the UK use these products and services - with over 5 million utilising Open Banking payments every month.[1][2] At a time when the cost of living is rising, these solutions make it easier for consumers to manage their financial lives, make better-informed decisions, and reduce their costs. Indeed, 84% of SMEs believe that it has helped them to manage their business more efficiently, 59% agree that it has reduced internal costs, whilst 70% believe it has reduced late payments.[3]

It has also improved access to financial services, facilitated the creation of new products and services that benefit consumers, including those in vulnerable circumstances. This innovation has helped to increase efficiency, lower the costs of accepting payments, and has added much-needed competition for payment methods, all of which has powered growth across the wider economy.

The UK's world-leading £11bn Fintech sector owes much of its success to forward-thinking regulatory initiatives like Smart Data schemes. The UK's Open Banking ecosystem was valued at £4.1bn in 2022 (37% of total Fintech sector contribution to the UK economy)[4] and employs over 4,800 people in high-skilled jobs. However, this is just the tip of the iceberg of what can be made possible when consumers are able to securely consent to share their data between firms.

Part 3 of the Data Protection and Digital Information No. 2 (DPDI) Bill provides the provisions for the Secretary of State and Treasury to introduce smart data schemes that cover wider parts of the economy including: Financial services, energy, utilities, communications, and the Big Tech platforms. We welcome these provisions since many

[1] Coadec, 'The £4bn Open Banking Ecosystem', April 2023
[2] Open Banking, 'UK reaches 7 million Open Banking users milestone', February 2023
[3] Open Banking Implementation Entity, The Open Banking Impact Report, June 2022
[4] Ron Khalifa, Khalifa Review of UK Fintech, April 2021

consumers are still locked out of their own data in many of these high-cost sectors, and the data portability measures within the Data Protection Act (DPA) and the General Data Protection Regulation (GDPR) have proved inadequate.

Although the DPA/GDPR requires that personal data must be provided in a 'structured, commonly used and machine-readable format', there is no explicit requirement for parties to develop technical standards to facilitate the transmission of personal data to third parties. There is also no requirement within DPA/GDPR that data portability be made possible in real-time and on a continuous, rather than discrete, basis.

Smart Data is the application of real-time, consent-driven, data portability across the economy. It will offer consumers greater control over their personal and customer data, enabling better access to more personalised services and products. For example, a consumer could decide to share data about their consumption patterns for a particular service with a third-party provider (TPP), and in return receive tailored recommendations of products and services which may better suit their needs. This could help influence more consumer-friendly behaviours, such as switching providers, cancelling costly subscriptions and contract terms, or trying cheaper deals and offers.

As well as improving consumer outcomes, Smart Data will help to create a more competitive market, drive cross-sector data driven innovation and help level the playing field for smaller businesses who do not have access to large data sets. In an economy with Smart Data at the heart, challengers would no longer have to compete just on the core products and services of incumbents. Instead they would be able to compete on the customer interface, bringing together disparate sets of data, making sense of trends and giving insights that the incumbents have missed.

As the largest platform who is developing the underlying infrastructure to enable all of this innovation to take place, we are excited about the benefits that smart data will bring to consumers and businesses. Indeed, the then-Department for Business, Energy & Industrial & Strategy (BEIS) estimated that these schemes could save SMEs over £35,000 on average, and improve productivity by around 7.8% *vis-a-vis* those who did not utilise smart data schemes.[5]

From our experience, incumbent data holders will inevitably highlight the technical costs of implementing these schemes. But Open Banking has shown what can be achieved. Not only

[5] BEIS Research Paper Number 2022/020, 'Estimating the benefits to third party providers and small and micro firms from Smart Data', September 2021

have seven million users benefited, but a whole new industry has been built with unprecedented levels of innovation that were originally unforeseen. Similarly, the experience of Open Banking shows that the best way to achieve beneficial outcomes for consumers, and a return on investment for incumbents, is by regulators co-designing these schemes with sector-specific experts.

We are therefore extremely supportive of the Department for Business and Trade's 'Smart Data Council', as well as its balanced membership which represents challengers, incumbents and data expertise.

The Smart Data scheme for financial services should be prioritised and enacted as quickly as possible

Open Finance is the immediate next step in the Smart Data evolution. By bringing the benefits of Open Banking to a broader array of financial products, Open Finance will give consumers and businesses greater control and visibility of their economic lives. It will allow third parties to access a broader range of customer data from savings accounts, investments, pensions, mortgages, insurance and much more. In turn, this data could then be used to create more personalised and intuitive financial products.

The Competition & Markets Authority's Retail Banking Competition Order 2017 - as well as the Payment Services Regulations (PSRs) - forms the regulatory underpinning of the UK's Open Banking ecosystem. However, its scope is limited to current accounts and credit cards, which means banks and other providers aren't currently required to give access to data related to other financial products.

Although the UK is quite often referred to as a leader for Smart Data schemes, our international rivals are catching up. Australia, Brazil, Bahrain and Singapore are going further and faster. Similarly the European Commission concluded a public consultation on open finance in July 2022. Recognising that a person's financial life is not limited to their payment account, the EU is looking at how to expand the principles of open banking in other areas as well. A legislative initiative could follow this year.

Part 3 of the Data Protection and Digital Information No. 2 (DPDI) Bill will finally provide the Secretary of State and the Treasury legislative underpinning for Open Finance to be implemented. We believe that the duties for Decision Makers (section 66) could be made more ambitious on the face of the Bill in order to protect the UK's position as a global fintech hub. For example: A time-restricted commitment for Ministers to publish a list of all the economic sectors to which provisions for smart data will be applied after the date of Royal Assent, with dates by which the provisions will take effect in each sector.

This would provide much needed clarity for businesses and investment. We are supportive of how the Regulatory Oversight Committee (JROC) - co-chaired by the Financial Conduct Authority (FCA) and the Payment Systems Regulator (PSR) - have transparently produced a three-phased delivery timetable through which open banking can continue to evolve into further smart data schemes:

- **2023**: Finalise the design of the structure, governance, and funding of the future smart data standards entity - with a transition from the Open Banking Implementation Entity to this new entity beginning in Q4 2023. This will develop all future smart data scheme standards.
- **2024**: Laying the groundwork for the end state by improving data sharing schemes, and supporting the development of commercial and liability frameworks.
- **2025**: A sustainable commercial model will have been developed and piloted and innovative business models will have been tested.[6]

It would, therefore, be possible to align the time-restricted commitments for Ministers with the JROC roadmap. It would be perfectly feasible for Ministers to compel the new standards entity ("decision maker") to begin creating interoperable standards for Open Finance after six months of gaining Royal Assent.

Similarly it would also be perfectly feasible for Ministers to compel the new standards entity ("decision maker") to publish a full list of economic sectors, with dates by which the provisions will take effect in each sector, within the first three years of Royal Assent.

Not only would this align with the roadmap that has already been agreed, it would provide vital clarity to international investors and businesses that the Government is serious about its pro-innovation and pro-competition intent. This cannot be understated. Regulatory certainty has been critical to unlocking the potential of Open Banking, with 92% of all investment raised by firms in the sample coming since 2018 when regulation went live for the first time.[7] Providing these additional clarifications around timelines on the face of the

[6] Joint Regulatory Oversight Committee, Recommendations for the next phase of open banking in the UK, April 2023
[7] Coadec, 'The Great Open Banking Crossroads', March 2023

bill would help many businesses at the vanguard to secure the capital they need to unleash a new wave of consumer-centric innovation.

We agree that Smart Data schemes for further sectors could benefit from thorough cost-benefit analyses, impact assessments and consultations with industry-specific stakeholders when designing any new scheme. However it will be important that consumer benefit and innovation are not subordinate factors to the will of incumbents.

The importance of an independent standards body and interoperability

One of the core reasons why the UK has been a world-leader on Open Banking is because of the model it took to build a common architecture of the data-sharing ecosystem. The Open Banking Implementation Entity (OBIE) was established to develop a common API standard which resulted in mandatory standards being implemented by banks, overseen and monitored by an independent body, with oversight powers (the OBIE).

This architecture has allowed the UK's ecosystem to overcome challenges faster than in other jurisdictions. We believe the OBIE is a UK centre of excellence for the development of smart data API standards. The organisation has over seven years of technical experience, and it has played an important role in co-designing standards with industry, leveling the playing field, as well as providing an important safeguard to ensure open banking is working well. We fully agree with the JROC recommendations on its future role, and we are pleased that the DPDI Bill contains new provisions around failure for non-compliance which include investigatory powers and the issuance of financial penalties.

Separately, another important ingredient to the UK's past success in Open Banking is the model of consent-based authorisations that enables consumers to share their data safely and securely. Some unregulated markets, like the US, have chosen a path of "credential sharing". This is where consumers share their username and password with a third party, who then log-in on their behalf and "scrape" the data they see to then be re-used in the third party app. This approach jeopardises the security of consumers' data, and leads to high costs of entry for firms as screen scraping can be very costly to maintain.

Instead of sharing credentials, Open Banking in the UK is built on regulated APIs. This allows users to consent to share data to a trusted third-party via a secure and direct integration. What has been shown by this approach is that when the consumer is in control of their data and who they share it with, this can build trust, drive engagement and empower activity. To prevent any possible backsliding towards "credential sharing" practices, we would recommend inserting language around the use of regulated APIs in section 61 of the Bill. This would ensure that the trust that has been built in smart data sharing schemes over the years is not fundamentally undermined.

TrueLayer will be happy to provide further oral evidence to the Bill Committee.

Yours faithfully,

Jack Wilson, Head of Public Policy, TrueLayer