

BEIS Cross Sector Options Feedback Feb 2021

Financial Data & Technology Association (FDATA) Feedback

Thank you for the opportunity to respond to the BEIS Smart Data Cross Sector Options. The Financial Data and Technology Association (FDATA) has a vested interest how the HMG's Smart Data initiative is delivered to market, as our members provide valuable digital financial services under Open Banking, and they will continue to serve UK residents with expanded value propositions as Open Finance begins rolling out across the market. FDATA is on the side of consumers, innovation, and competition; we welcome HMG's willingness to orchestrate the initiative.

In regards to BEIS' note on creating opportunities for wider collaboration within the ecosystem, FDATA strongly suggests engaging the capabilities housed in the Global Open Finance Centre of Excellence (GOFCoE), to whom BEIS awarded an innovation grant in 2020. GOFCoE has built a Global Open Finance Technical Working Group focused on establishing harmonised and interoperable international technical standards; along side this is a Consumer Data Protection Unit, an Economic Observatory, an Economic Crime unit, and an Innovation Sandbox. All of these capabilities align with the sort of support the Smart Data Initiative would require. We strongly encourage BEIS to identify other potential ecosystem resources that would contribute to enhanced cooperation.

FDATA submits the following responses to the questions posed in the Sector Options draft of February 2021.

Q3. Are there existing organising arrangements that are similar and could either unhelpfully cut across our ambitions in this area or helpfully be expanded to develop Smart Data in the same way?

R. Given the distributed responsibilities for aspects of a UK Digital Identity, we note that this will require BEIS to work in lockstep with DCMS on this issue. We also note that there must be close coordination with all the other government divisions who have some accountability for delivering Digital Identity. Any misalignments in this matter will result in a fragmented end product, with no standards to ensure harmonised interoperability across multiple industries. Digital Identity underpins every aspect of the Smart Data Initiative. In this foundational role, integrity in Digital Identity is a must, otherwise the entire trust framework falls apart.

Specific Questions

Q. Do you have a preference for any of the organising layer options presented?

R. Yes, FDATA prefers the proposed Smart Data Body, however we propose that elements of the Board design be incorporated (a hybrid Body/Board approach). Given our experience with the delivery of Open Banking to the market, and the good work the OBIE has done to convene and coordinate Advisory Group input on key elements essential to the success of Open Banking, FDATA suggests keeping Advisory Group capabilities in the Body model to provide a forum for debate, discussion, and resolution of thorny issues where there are clear competing interests across the various stakeholders. Advisory Groups allow for a more rapid resolution, with an output of a clear set of recommendations, for the Body to vote upon without requiring the full Body to engage in the exercise. This is an economic approach to managing

where the best the Body's time and attention is focused, and allows for multiple issues to be addressed concurrently rather than one at a time, which would be the case if the Body were to tackle all the material questions that arise.

Q. Should government prioritise any of the functional coordination options?

R. Although we believe that all of the functionalities BEIS has identified are important, FDATA recommends that functions benefiting from identical requirements be prioritised. One of the lessons learned from the delivery of Open Banking is the critical importance of standards. We cannot overstate the importance of standards, and therefore any standardisation arising from cross-industry identical requirements would be to the distinct benefit of the entire market. While we believe that each industry vertical ought to be left to deliver their respective Open Data requirements, as domain expertise is necessary to identify nuances particular to that industry, the decisions around standards and expected outcomes should be determined by the Body organising layer; the Body ought to oversee the translation of identical requirements into cross-industry standards that are then delivered by the respective functional layers.

Q. In creating an organising layer, how should government approach the role of a 'chair'? Are there benefits to having an independent chair?

R. As evidenced by how Open Banking has been delivered in the UK vs. how the EU has approached it speaks to important it is to have an independent trustee overseeing the delivery of Smart Data. The EU has no orchestrating body that oversees individual firm conformance to the standards, and the overall market facing technology performance that provides the infrastructure rails on which the data runs. Because of this, there is fragmented implementation. Technical specifications were chosen over technical standardisation, leading to such a multitude of different interfaces, that ubiquitous interoperability is almost impossible. The resulting delay to delivering Open Banking in the EU is now being addressed via a push for standards, trying to retroactively correct this lack of orchestration. The UK should continue to heed council from its own experience, to continue to be proscriptive on the outcome, but not the delivery, and empower an independent Trustee to make changes to the delivery roadmap as lessons are learned and to adapt as different challenges arise.

Because there are competing interests, and mis-aligned incentives, an independent chair is best placed to arbitrate those differences. The chair is duty bound to bring the various stakeholders together to hammer out a middle-way forward that balances interests, requirements, and funding obligations to be proportional and palatable for the competing parties. To anticipate that industry to self-organise is naïve, and OBIE has showcased just how critical an independent trustee is to successful functional delivery.

Q. Are there any constraints to X taking, along with others, a leading role in any organising layer, e.g., becoming a Smart Data Board member?

R. As a trade association, FDATA falls into the category of Industry in the Organisational Layer map. We have had a seat on the Open Banking Implementation Entity Steering Group from its inception; as such, we also serve on numerous Advisory Groups more focused on functional layer delivery. However BEIS chooses to move forward with the organising layer structure of Smart Data, FDATA would welcome the opportunity to contribute, participate in, and support the future organisation.

Q. Are there examples of how X currently reaches joint agreements with other regulators?

R. FDATA has no perspective to provide.

Q. Are there specific legal constraints that would restrict X adopting common decisions made at a cross-sector level?

R. FDATA's members – who provide regulated and licensed financial services under PSD2 – may face certain legal constraints if those decisions ran counter to what is required by PSD2, and the Payment Services Regulation 2017, or the CMA's Retail Banking Market Investigative Order. However we would anticipate that those rules and laws would be considered during the design of any cross-sector solution to be considered.

Q. Where adoption of other sector's functional approaches is an option, how would the regulator approach those consideration?

R. FDATA recommends leveraging the work that has already been delivered to build crucial infrastructure components like the Open Banking Trust Framework and Directory; these assets have already been through testing and live market production, have proven not only workable, but scalable and adaptive. The fact that these infrastructure solutions are live in the market, and whose metal has been tested, should provide ample evidence for regulators to review their soundness and scalability for adoption by other industries under the Smart Data umbrella.

General Questions

Resourcing:

- How should the ecosystem resource cross-sector activity? Are there specific areas that BEIS should focus on and consider as part of a spending review bid?
- How far can Government expect regulators and organisations to pool resources and capabilities, for instance in delivering joint programmes of innovation, support, best practice sharing, etc.?
- Are there immediate priorities that an organisation layer should focus on?

R. FDATA suggests a few things for BEIS to consider as they strive to answer the above questions. The funding model is critical: who funds it (incumbents, competitors, government)? Is the funding structure fair and equitable? Is it proportional? Will certain firms be obligated to invest in the marketplace with little sightline on return on investment?

Again, experience from delivering Open Banking has taught us that an implementation body needs to include the ability to either obligate or enforce the obligation to raise a fair and proportionate levy to ensure the framework is funded.

FDATA proposes that immediate priorities the organisational layer should focus on be the legal, regulatory, and data privacy elements. In particular, the complexities of the liability and redress models that cut across industries should be of import; these are some of the trickier elements to solve for, the technology standards are much less contentious and much more straight forward. At the functional layer, the liability framework will be industry specific in its design; it requires harmonisation at the organisation level, since the function view will be siloed, and not necessarily take into consideration unique requirements for particular industries. So we caution against leaving the ultimate liability framework design to the functional level.

We also suggest that the implementation body needs to allow different industries to deliver their own programs, but have strong, tight, cross coordination – including some shared services – at the organisational layer.

Wider involvement:

- What should the role of implementing entities be within any organising layer?
- Should new sector initiatives automatically be included in the organising layer, for instance, by taking a Board role?

R. We recommend that implementation entities have representation on the Steering Group (under the proposed Body model); Steering Group is the appropriate space for individual implementational entities (Trustees) to discuss and debate competing interests, and to agree to necessary shared services, practices, and standards.

Functions:

- Are there any functions that Government should prioritise further thinking?
- How should government ensure functional coordination is considered in the development of initiatives?
- Are there specific areas where government should look to engage competition in the delivery of functions?

R. FDATA does not have any recommendations to share at this time.

Interoperability:

- Are there wider steps government can take to support cross-sector interoperability?
- How should the ecosystem handle initiatives that choose to sit outside of cross-sector coordination?

R. FDATA believes that one of the most crucial components of interoperability is shared technical standards. These standards can be supervised and enforced, and since it is a technological challenge, there are technological approaches to measuring conformance and performance across systems. We recommend that each industry be obliged to adopt the same technical standards, and be supervised and measured in their conformance to those same standards.