Financial Data and Technology Association

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March 28, 2023

The Honourable François-Philippe Champagne
Minister of Innovation, Science and Industry
235 Queen Street
Ottawa, ON K1A OH5

Dear Minister Champagne:

On behalf of the Financial Data and Technology Association of North America ("FDATA North America"), I am pleased to provide our perspectives in response to the government's review of the Competition Act. As a trade association representing dozens of some of the most innovative financial technology companies working alongside Canadian consumers and small- and medium-sized enterprises ("SMEs"), we share your view of a more competitive marketplace in which consumers and SMEs may choose the provider, tool or service that best fits their unique need.

FDATA North America was founded in early 2018 by several financial technology firms whose technology-based products and services allow consumers and SMEs to improve their financial wellbeing. As the leading trade association advocating for customer-permissioned access to financial data, FDATA North America's members include firms with a variety of different business models. Collectively, our members provide millions of Canadian consumers and SMEs access to vital financial services and products. Regardless of their business model, each FDATA North America member's product or service shares one fundamental and foundational requisite: the ability of a customer to actively permission access to some component of their own financial data that is held by financial services providers.

We are pleased to provide the following perspectives in response to Competition Act review consultation.

The Role and Function of the Competition Act

In your view, do the objectives of the Competition Act need to be revised or rebalanced? Is the Competition Act sufficiently flexible and practical to understand and apply? What are the right tests to prevent clearly harmful conduct by dominant businesses and/or mergers between businesses?

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It is critical to update and right-size the Competition Act to reflect today's current business environment to maintain competition in the market for data-driven financial services. These updates must address situations where certain market participants either individually or collectively override a decision by a consumer or SME to direct a potential competitor to electronically access their financial information.

The decision to review the Competition Act is a wise and timely one. The last time Canada's competition regime was comprehensively reviewed was 2007, the same year the first iPhone was released. Since then much has changed across the competition landscape, including in financial services. Indeed, consumers and Small and Medium-sized Entities (SMEs) have enjoyed burgeoning competition for financial services, including for products driven by their own data. These services allow consumers and SMEs to take greater control over their financial lives and opportunities: to find new sources of credit based on innovative underwriting models, to initiate payments to friends, family, and vendors in real time and without fees, and to help manage their financial outlook across multiple accounts and plan effectively for the future. In a time of enormous economic uncertainty, these services are more important than ever to help consumers and SMEs navigate difficult financial circumstances.

As consumers and businesses face a daunting economic landscape, it is critical to update and right-size the Competition Act to reflect today's current business environment to maintain competition in the market for these data-driven financial services. It is even more essential when certain market participants either individually or collectively can override a decision by a consumer or SME to direct a potential competitor to access their financial information. While restrictions and limitations to financial data access are frequently contextualized under the banner of customer protection, market participants have been dealing for years with issues related to data protection and regulatory compliance. Steps to override customer directed access raise critical competition issues under Canadian law. It is crucial those laws are both flexible and practical to keep up with the dynamic and complex nature of the ever-changing nature of financial services and the evolving approach to data protection.

Indeed, the costs of restricting competition in data-driven financial services are severe. A recent FDATA North America study indicates that nearly two billion existing consumer and SME accounts held by tens of millions of residents in the United States could be rendered useless by overriding access to financial data that was specifically directed by those consumers and businesses. A proportionate share of these accounts likely exist in Canada in that more than six million Canadians already use data-driven services that offer them convenient ways to manage their finances and their businesses, most often through credential-based access. A direct result will

be far fewer options to help consumers and businesses in perilous times—particularly in critical areas like credit for small businesses—and inevitably higher prices for consumers and SMEs.

The Role and Powers of the Competition Bureau

Could or should the Competition Act broaden the role of the Competition Bureau as an enforcement agency, and the decisions available to it? Does the Competition Bureau have the authority it needs to identify threats to competition and take timely and effective action? How can review and investigation processes be more efficient? Are the right governance and accountability measures in place to ensure delivery of results and provide Canadians with confidence in the Competition Act enforcement regime?

Data-driven financial services operate in a unique market with an established history and reliance on customer-directed data sharing. Restrictions on customer-directed data sharing that directly inhibit competition must be scrutinized under well-established competition laws. As the Department of Finance works to implement an open banking regime for Canada, any new legislation or regulations regarding competition in the financial services marketplace should be aligned with the Department's work on this file.

Both the business and technological arrangements underlying customer-directed financial data sharing are evolving. In general, a portion of the market is moving toward bilateral agreements between financial institutions and data aggregators for handling customer-directed data sharing. Aggregators in turn assist their own customers, data-driven financial services providers, with obtaining the financial data—at their customers' request—necessary for services to function. However, market participants generally recognize that individually negotiated bilateral agreements are an inefficient means of dealing with permissioned data access. Such agreements often take years to negotiate, lack uniformity, require extensive human and technical resources to deploy and maintain, and provide the potential for specific institutions to exert restrictions on data access, including by seeking to block particular data fields that the customer requested to be shared, such as data that could be used by potential competitors. Additionally, the technology used for data sharing is shifting throughout the market. Many market participants are moving from credential-based access based on consumers providing their login credentials to an intermediary to obtain their financial information to access enabled through an application programming interface ("API") provided by a financial institution to a data aggregator. This too enables certain data fields to be unilaterally blocked from being accessed via the API, as the bilateral agreements generally

prohibit a data aggregator from accessing data through any means other than the API the institution has deployed.

FDATA North America members have a number of competition concerns about the current composition of the customer-permissioned financial data access market in Canada:

- Broad attempts to override customer-directed access to financial data, by directly restricting third parties' access to that data despite customer authorization, outside of individual instances of suspected fraud or unauthorized access.

- Restriction of customer-directed access to financial data due to intentional degradation of data sharing.

- Targeting and blocking sharing of specific data fields, contrary to customers' authorization, used by directly competing services. Blocking specific data fields can effectively render competing services useless and coerce customers into using services offered by the financial institution that may not be best suited for their needs.

Constructive restriction of customer-directed access is a particular concern. For example, a financial institution may use a token to facilitate permissioned access to financial data via an API. That token can be set to expire after a period of time. Frequent token expiration, causing the customer to need to constantly re-authorize permission for data access, may deter a customer from relying on the financial service, in some cases by adding extensive friction, and in others by undermining services that rely on continual data access. Some services like small business lending based on cash-flow data, or real-time financial management applications, rely on continuous updating of information and may be rendered unusable by token expiration requirements imposed by a financial institution. For example, SMEs who depend on cloud accounting software to manage their cash flow are adversely affected by being cut off from their account information should they fail to renew authentication/consent within a period as short as 90 days, especially if that authority is not delegated to their accountant; any delay in re-establishing that connection can result in poor financial forecasting, poorly timed financing requests and badly managed credit repayment, and inaccurate cash flow management.

Restrictions on specific data fields can also suppress competition even if all data is not blocked. For example, selectively blocking the sharing of some portion of data that a fintech lender uses for underwriting can undermine the lenders' ability to perform effective analysis of creditworthiness, and therefore its ability to provide a loan to the customer on competitive terms. This is true even

if the lender has access to some portion of the data—but not all of the data that the customer permissions in order to allow the service to function effectively.

Restrictions on customer-directed data sharing that directly inhibit competition in this way must be scrutinized under well-established competition laws. In the U.S., financial institutions that control consumer and SME financial data have substantial market power, both in terms of market share and ability to impose barriers to entry on competitors. We have seen a similar market power dilemma in the United Kingdom where the Competition and Markets Authority (CMA), in an attempt to increase competition among banks, introduced its Open Banking system in 2018. The CMA noted that the largest U.K. banks were not competing for consumers, which made it difficult if not impossible for new innovative banks to enter the market. The same is certainly true in Canada. According to the Competition Bureau's own research, 71% of Canadians have been with the same financial institution for the past 10 years, suggesting that open banking would increase competition in the financial sector. Indeed, the Supreme Court of Canada has defined "market power" as "the ability to 'profitably influence price, quality, variety, service, advertising, innovation or other dimensions of competition.'"

When working in some combination, and potentially in some instances unilaterally, large financial institutions can dramatically affect competition in data-driven financial services. As noted above, the potential impact on fintech accounts of restricting a range of data fields would be enormous—it would essentially disable the ability of certain competitors to operate entirely. Additionally, a customer could be effectively coerced into using a particular data-based financial product offered by the customer's primary financial institution if the customer is denied the ability to authorize access to account information to a third party. In fact, that denial could effectively inhibit the customer's ability to obtain a data-driven financial service from other competitor banks, many of which use data aggregation services to obtain customer financial information for their product offerings.

The range of data-driven financial services exists because customer-directed data sharing is the status quo of the online financial services market. As a practical matter, the market for services powered by consumer and SME financial data has existed since at least the early 2000s, when traditional financial institutions and others began using customer-directed data sharing to offer new products and services to consumers. Indeed, some FDATA members have been dealing with permissioned access to account-level data for more than two decades, even before the recent growth of fintechs – including by facilitating data sharing between financial institutions. In short, data-driven financial services have evolved in a market where customers' permissioned access to their financial information is the norm.

This status quo in Canada is buttressed by access to personal information obligations codified in the Personal Information Protection and Electronic Documents Act ("PIPEDA"). In Canada, laws relating to access to data are jointly governed by federal and provincial privacy legislation. PIPEDA is the federal privacy law for private-sector organizations. PIPEDA sets the ground rules for how private-sector organizations collect, use, and disclose personal information during for-profit, commercial activities across Canada. It also applies to the personal information of employees of federally regulated businesses such as: banks, airlines, and telecommunications companies.

All businesses that operate in Canada and handle personal information that crosses provincial or national borders are subject to PIPEDA regardless of which province or territory they are based in. PIPEDA does not apply to organizations that operate entirely within Alberta, British Columbia, and Quebec unless that personal information crosses provincial or national borders. These three provinces have general private-sector laws that have been deemed substantially similar to PIPEDA.

Schedule 1 of PIPEDA sets-out ten fair information principles. Principle 9 deals with individual access. Individuals have a right to access the personal information that an organization holds about them. Record holders are required to give people access to their information at minimal or no cost or explain the reasons for not providing access. Providing access can take different forms. For example, a record holder may provide a written or electronic copy of the information or allow the individual to view the information or listen to a recording of the information. In the data-driven financial services marketplace, aggregators play the role of electronic copy carriers, porting data with consumers' consent.

The federal Bank Act, for example, contains provisions permitting the regulating of the use and disclosure of personal financial information by federally regulated financial institutions (although no such regulations have been promulgated). Provincial laws governing credit unions typically have provisions dealing with the confidentiality of information relating to members' transactions. Most provinces have laws dealing with consumer credit reporting. These acts typically impose an obligation on credit reporting agencies to ensure the accuracy of the information, place limits on the disclosure of the information, give consumers the right to have access to, and challenge the accuracy of, the information.

In sum, data-driven financial services operate in a unique market with an established history and reliance on customer-directed data sharing. FDATA and others have argued that new legislation or regulations would speed the path toward practical implementation of open finance and improve

the existing market, while further encouraging competition. That said, as the regulatory landscape develops, the status quo is that consumers and SMEs can—and by the many millions, do—access their financial data and provide it to third parties to enable competitive financial services.

The Effectiveness of Remedies and Private Redress Mechanisms

Are new or stronger tools needed to promote compliance with the Competition Act? Are cases being decided in the best possible way? Are remedies for harmful conduct strong enough to restore competition and undo the harm that has been caused?

Several provisions of the Competition Act that apply to financial institutions could be more actively used to prevent financial institutions from blocking consumer-permissioned data access to third party financial providers of their choosing.

Canada's Competition Act prohibits conspiracies, agreements or arrangements between competitors to: (a) to fix, maintain, increase or control the price for the supply of the product; (b) to allocate sales, territories, customers or markets for the production or supply of the product; or (c) to fix, maintain, control, prevent, lessen or eliminate the production or supply of the product. Senior Competition Bureau staff have repeatedly stated that this subsection will only apply in the most egregious forms of cartel agreement and that the Competition Act's other civil provisions will normally apply.

Federal financial institutions are also governed by Section 49 of the Competition Act, which prohibits, amongst other things, agreements amongst them with respect to "the kind of service to be provided to a customer." Federal financial institutions may be exempt from this prohibition "with respect to the exchange of statistics and credit information, the development and utilization of systems, forms, methods, procedures and standards, the utilization of common facilities and joint research and development in connection therewith, and the restriction of advertising." The onus would be on those federal financial institutions to prove that they qualify for this exemption. Whether an agreement on which data to provide to certain customers in certain circumstances is captured under the above-referenced exemption has not been litigated in Canada.

Section 90.1 is a civil-track provision that permits the Competition Tribunal (on the application of the Commissioner of Competition) to make remedial cease-and-desist orders in connection with agreements between competitors that substantially lessen or prevent competition. This section is intended to address arrangements between competitors that are not egregiously illegal, but which may substantially lessen competition.

Section 90.1 involves an effects-based test that involves determining whether the agreement or arrangement creates, maintain, or enhances the market power of the parties to the agreement.

The application of the above provisions of the Competition Act – namely sections 45, 49, and 90.1 – are premised on financial institutions agreeing on how to share data, as opposed to mere unilateral action.

The Competition Act also permits the Commissioner of Competition to bring an application before the Competition Tribunal for an order prohibiting an abuse of dominant position where:

> (a) one or more persons substantially or completely control, throughout Canada or any area thereof, a class or species of business,
>
> (b) that person or those persons have engaged in or are engaging in a practice of anti-competitive acts, and
>
> (c) the practice has had, is having or is likely to have the effect of preventing or lessening competition substantially in a market.

Abuse of a dominant position occurs when a dominant firm or a dominant group of firms engages in a practice of anti-competitive acts, with the result that business-to-consumer and business-to-SME competition has been, is, or is likely to be prevented or lessened substantially in a market. To define a market, an evaluation of whether the dominant firm (or firms) has a substantial degree of market power within that market. In this context, markets are defined in reference to both a product and geographic dimension, based on demand substitution in the absence of alleged anti-competitive conduct. Canada's Competition Tribunal has characterized a substantial degree of market power as one that "confers upon an entity considerable latitude to determine or influence price or non-price dimensions of competition in a market, including the terms upon which it or others carry on business in the market".

The second element considers the purpose of the impugned acts: whether the dominant firm (or firms) has engaged in a practice of conduct intended to have a predatory, exclusionary, or disciplinary negative effect on a competitor. Disciplinary acts involve actions intended to dissuade an actual or potential competitor from competing vigorously, or otherwise disrupting the status quo in a market, such as rules to prevent information sharing. An evaluation as to the purpose of the act in question is necessary. For example, was the intent of the rules preventing information sharing to prevent competition?

In some exceptional circumstances, refusals to supply may engage the abuse of dominance provisions where a firm agrees to supply on terms that are sufficiently onerous as to have the same effect as an explicit denial (e.g., charging a prohibitively high price or in the current situation, setting information-sharing rules that are not feasible). The product or service being denied must be both competitively significant and cannot otherwise be feasibly obtained (for example, from other suppliers or through self-supply). In this case, it may be reasonably foreseeable that the purpose of a refusal was to exclude a competitor, in the absence of a legitimate business justification. Compliance with a statutory or regulatory requirement may also constitute a business justification, where an act is required to comply with that statutory or regulatory requirement. Proving that burden falls on the firm claiming the statutory or regulatory requirement.

The final element involves an analysis of whether competition – on prices, quality, innovation, or any other dimension of competition – would be substantially greater in a market in the absence of the anti-competitive conduct. This assessment is a relative one, comparing the level of competition in a market with and without the alleged anti-competitive conduct, rather than an assessment of whether the absolute level of competition in a market is sufficient. The Competition Bureau would consider effects on both static competition (e.g., short-run prices and output), as well as dynamic competition (e.g., rivalry driven by product or process innovation). The Competition Tribunal has characterized innovation as "the most important form of competition". Conduct that creates or enhances barriers that reduces innovation is of particular concern to the Competition Bureau.

Last, the Competition Act permits the Competition Tribunal (on an application of the Commissioner of Competition or on a private application subject to leave) to order a supplier of a product to cease its refusal to deal with a customer where:

> (a) a person is substantially affected in his business or is precluded from carrying on business due to his inability to obtain adequate supplies of a product anywhere in a market on usual trade terms,
>
> (b) the person referred to in paragraph (a) is unable to obtain adequate supplies of the product because of insufficient competition among suppliers of the product in the market,
>
> (c) the person referred to in paragraph (a) is willing and able to meet the usual trade terms of the supplier or suppliers of the product,
>
> (d) the product is in ample supply, and

(e) the refusal to deal is having or is likely to have an adverse effect on competition in a market.

All five elements must be proven. Depending on which financial institutions refuse to provide access, the market for consumer data could be stymied by a given financial institution or a group of them. If a company that is currently employing credential-based access is prevented from doing so, especially in cases where credential-based access is normally permitted by the financial institution, the denial must substantially affect their business. It must be more than de minimis. The refusal to supply customer-permissioned data also must have or is likely to have at least some anti-competitive effect on the market as a whole. The remaining market participants must be placed in a position, as a result of the refusal, of created, enhanced or preserved market power. Price, quality and variety of the product must be considered in assessing adverse effect. The U.S. Federal Trade Commission noted in a case involving "data blocking" agreements over sales data that the restricted sales data was not [the defendant's] to control. Similarly, in Canada, the consumer or small business has the ability to access his or her financial information and provide it to another party, including a third-party competitor. Restrictions on sharing financial data override this customer choice to provide that information to third parties.

Addressing Challenges of Data and Digital Markets

Should new, sector-specific mechanisms be added, or existing ones strengthened to better address anti-competitive behaviour? How should the Competition Act intersect with other digital governance areas such as privacy and data protection?

Competition issues cannot take a back seat as the regulatory and technological framework in data sharing continues to evolve. FDATA and its members have long advocated for a regulatory approach that facilitates the sharing of data by customers with, and between, their financial service providers, based on consent and with safeguards for privacy and security. Such "open finance" systems that achieve those two objectives have been implemented in the United Kingdom and Australia, and are in the process of being deployed in Canada, the U.S., New Zealand, South Africa, and many other countries. Restrictions on customer-directed data sharing to competitors, and/or targeted suppression of certain data that consumers and SMEs choose to share with competitors, directly thwarts competition and must be closely scrutinized under the Competition Act. As Canada develops a regulatory approach to protect data portability, competition laws will need to be updated to provide a critical backstop to ensure that existing competition in the market for data-driven consumer financial services is not stifled.

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The innovation in financial services is powered by consumers and SMEs granting permission for access and use of their data, often in conjunction with cutting edge machine learning and other data analytics technology. Much of this financial data is associated with consumers' and SMEs' existing accounts with financial institutions – including transaction history, loan products, and spending habits. For more than two decades, consumers and SMEs have chosen to provide access to this data to additional financial institutions and new competitors (such as financial technology companies, or fintechs) to obtain additional financial services to meet their economic needs. This innovation has occurred while maintaining secure access to financial data. In fact, many financial institutions are willing to permit certain types of access to financial data so long as certain security measures are taken.

Competition issues cannot take a back seat as the regulatory and technological framework in data sharing continues to evolve. FDATA and its members have long advocated for a regulatory approach that facilitates the sharing of data by customers with, and between, their financial service providers, based on consent and with safeguards for privacy and security. Such "open finance" systems that achieve those two objectives have been implemented in the United Kingdom and Australia, and are in the process of being deployed in Canada, the U.S., New Zealand, South Africa, and many other countries. As this regulatory approach develops, competition laws provide a critical backstop to ensure that existing competition in the market for data-driven consumer financial services is not stifled.

A wide range of applications use consumer and SME financial data to power innovative products and services to meaningfully improve their customers' financial lives. These include: online lending platforms for consumers and SMEs that leverage the availability of data for underwriting decisions; payment apps that access customers' accounts to enable faster and more efficient payments; and financial management applications that advise consumers and SMEs on options to improve their financial outlook.

These types of applications depend on consumers and SMEs granting access to their financial data—data often in the possession of depository and other legacy institutions with which consumers and SMEs have a relationship. To facilitate data sharing with these financial services providers, companies known as data aggregators have emerged, via the competitive market, to safely and securely collect and transmit financial data at customers' direction. All companies in this ecosystem depend directly on and answer to their customers, who give explicit permission for access to their financial data. Additionally, companies operating data-driven financial services must compete on critical issues like data security, reliability, and customer service.

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As the business and technological arrangements underpinning customer-directed financial data sharing evolve, it is essential to maintain competition in the market for these data-driven financial services. FDATA members stand concerned that competition in data-driven financial services may be stifled when financial institutions override customer direction to share their financial data. These restrictions can range from broad attempts to directly limit third parties' access to data despite customer authorization (outside of individual instances of suspected fraud or unauthorized access); degradation of data sharing that effectively thwarts customer-directed access to financial data; and targeted blocking of sharing specific data fields in way that effectively renders competing services useless. In each of these cases, as evidence shows, competition in data-driven financial services would be substantially inhibited, to the direct and severe detriment of consumers.

Efforts to override customer-directed data access for competing financial services in these ways must be closely scrutinized under competition laws. As holders of the financial data that consumers generate in the course of their everyday lives, financial institutions can exercise market power in a way that dramatically limits direct competition with third party providers. Outside of stopping fraudulent or similar unlawful conduct, broad restrictions on customer directed data sharing to competitors, or targeted restrictions of certain data fields used by competitors, are not justified by existing law or regulations, regulators' third-party oversight obligations, or consumer protection concerns. Nor do they have procompetitive benefits that would outweigh anticompetitive effects. Overriding customer-directed data access for competing financial services in these ways raises issues under antitrust laws. There are fraud-related reasons for restricting data in certain limited circumstances, and market participants are currently working together to address them. However, restrictions on customer-directed data sharing to competitors, and/or targeted suppression of certain data that consumers and SMEs choose to share with competitors, directly thwarts competition and must be closely scrutinized under antitrust laws.

Overriding customer-directed access to financial data, under the circumstances discussed above, would have serious repercussions for financial service providers and the consumers and small businesses they serve. Today, there are more than six million Canadians already using data-driven services most often through credential-based access. In 2019, FDATA examined the impact of restricting access to a portion of the U.S. market that currently relies on credentialed access rather than APIs. Its findings were based on a survey of its members that were shared with U.S. regulators. FDATA's conclusion is that overriding consumer-permissioned access to data would be devastating to the market.

Overall, 78% of Canadian consumers using at least one fintech payment and money transfer service would lose functionality if customer-directed credentialed data access was completely cut

off and only data provided through financial institutions' APIs was permitted. Also impacted would be Canada's global finance footprint (exports reaching $14 billion in 2018) and Toronto's position as North America's second-largest financial centre with the highest concentration of financial services employment in North America, at 8.3%.

Other Pro-Competitive Policies

Beyond the Competition Act, what other tools might the Government consider to drive greater competition in Canada? Are there other laws and regulations beyond the Competition Act that could do more to promote competitive markets?

FDATA North America strongly urges the Department of Finance to prioritise timely development of Canada's Open Banking regime, as detailed in the 2021 Advisory Committee Report on open banking. In addition to many other benefits, this regime will significantly boost competition in the financial services market by making it easier for consumers to change financial institutions, partner with the third-party providers, and shop around for the most competitive product and service offerings.

The anticompetitive effects of restricting customer-directed data sharing to competitors are not generally outweighed by any procompetitive benefits. To be sure, certain restrictions may be necessary to stop fraudulent or similar conduct. In the current marketplace, stakeholders are working together to address fraud and consumer protection concerns while competition continues. A broad restriction on customer-directed data sharing, or targeted restrictions on certain data that is useful for competitors, would not advance these goals. In Canada, the then-Interim Commissioner of Competition, made submissions to the Department of Finance Canada review into the merits of open banking in February 2019. The Interim Commissioner pointed to research that showed low levels of financial technology adoption in Canada relative to other countries, and limited consumer engagement driven, in part, by frictions associated with shopping around and switching. These factors were symptoms of a market that was not functioning to its full potential.

The Interim Commissioner believed that banks would be forced to compete harder for consumers, and consumers would have access to a broader range of services, if the benefits of technology could be more fully exploited through open banking. This submission built upon a previous submission by the Commissioner of Competition calling for more competition and making it easier for customers to switch between competitors easily. The Commissioner supported the expansion of flexibility for federally-regulated financial institutions to engage in innovative collaboration

with fintech entrants. He nevertheless cautioned that some collaboration between competitors could lead to anti-competitive outcomes. There are two broad concerns that stakeholders must manage in dealing with financial data sharing: regulatory requirements and consumer protection concerns such as fraud and data security. No law or regulation requires financial institutions to broadly restrict customer-directed access to competitors or to selectively restrict sharing of certain data to competitors. And stakeholders have been working collaboratively to deal with consumer protection concerns for years without resorting to broad data blocking or targeted restrictions on certain data, which in fact would undermine those efforts. Indeed, all financial services competitors are subject to consumer protection oversight and accountable to the very customers who direct them to access their financial data.

As Canada explores customer-directed finance, it is critically important to recognize the implications of anti-competitive behaviour with regard to financial data access and to design an infrastructure that addresses the issue by mandating broad, unimpeded financial data access rights for consumers and SMEs. Robust competition in data-driven financial services will deliver lower costs, better services, and better outcomes for consumers' and small businesses' financial outlook. Overriding consumers' and SMEs' direction to share data to obtain the benefit of these financial services would pose a significant harm to competition and to consumers and small businesses nationwide.

Conclusion

Once again, thank you on behalf of FDATA North America and its members for the opportunity to provide our perspectives in response to the government's review of the Competition Act. We would be very pleased to share any additional information or data that might be of value as you and the Department embark on this important work.

Sincerely,

Steven Boms

Executive Director