

By email

29<sup>th</sup> March 2021

## **Pay.UK response to CMA Consultation: The future oversight of the CMA's Open Banking remedies**

We welcome the opportunity to respond to the CMA's Consultation. In this response, we set out our view that the opportunity for us to take on responsibility for Open Banking payments / PISP-related activities from the Open Banking Implementation Entity (OBIE) is worthy of detailed discussion.

### **About Pay.UK**

We were formed in July 2017 (initially under the name New Payment System Operator or NPSO). We are a not-for-profit company, with independent governance. We are the Payment System Operator for the Bacs and Faster Payments systems, which are recognised under the Banking Act 2009, and are therefore subject to macroprudential regulation by the Bank's Financial Market Infrastructure Directorate. In addition, our operation of Bacs, FPS and the Image Clearing Systems are subject to economic regulation by the PSR as designated systems under FSBRA 2013. We also deliver a range of managed services which offer capabilities to enhance the payments systems. These include the Current Account Switch Service (CASS) which delivers on competition obligations required by the CMA. CASS is regulated by HM Treasury.

We perform a number of roles, all of which align with the expectations of the CMA as set out in your Consultation.

### Recognised Payment System Operator

As an RPSO, our focus is on providing robust and resilient retail payments infrastructure for the UK. Maintaining operational excellence and fulfilling our obligations as a Systemic Risk Manager are at the heart of everything we do.

As an RPSO, we also set the rules and standards for retail payments. Our Standards Authority is responsible for the definition of standards for our services, including those for the New Payments Architecture programme. Our approach is defined by the Standards Framework, which outlines the governance, key principles, definitions and procedures for the development, modification and periodic review of standards. Importantly, we work with a range of industry bodies on these standards – including with the OBIE.

## Market Catalyst

Our aim is to enable a vibrant UK economy. We use horizon scanning to identify key trends and market opportunities to make the end-to-end payments process more effective and efficient for participants and end-users. Similarly, we identify end-user detriments that should be addressed on an industry-wide level. Through our ecosystem engagement approach, we encourage and enable actors across the ecosystem to develop new propositions to take advantage of these opportunities and to help remove detriments from retail payments.

## The New Payments Architecture

The NPA will deliver the vision for the future retail payment infrastructure in the UK. Our vision is to enable the retail payments ecosystem to realise new opportunities, unlock innovation and competition and address persisting end user and participant detriments.

The NPA will deliver a more open ecosystem, encouraging innovation and competition by providing a 'layered architecture' with open APIs, an Innovation Environment (sandbox) and other enablers to encourage PISPs in particular to offer overlays and other value-added services for users.

It will also bring a move to instant payments (from near-real time today). This will support our strategic goal to enable Open Banking (Account-to-Account) Payments to be a viable alternative to card payments for purchases both online and in face-to-face retail environments.

The opportunities that Open Banking has already opened up for ecosystem players will continue to grow. The NPA, as our 'innovation platform' will ensure that even more entities will be able to deliver value across the end-to-end payments flow. We therefore see significant synergy between our role and those elements of the OBIE's scope that relate to this flow.

## **Pay.UK's high-level view**

Our view is that there are both clear potential synergies and benefits of us taking on responsibility for Open Banking Payments / PISP-related activities from the OBIE, should such a subset of activity emerge.

We have set these out below, and we are open to exploring in more detail with the CMA how Open Banking Payments / PISP-related activities would fit within our vision to be the beating heart of a vibrant payments ecosystem: delivering resilience; inspiring new solutions; powering the UK economy.

As discussed with the CMA, we have not yet undertaken the necessary detailed analysis to understand the full impact of taking on these activities, nor have we taken our position through our Board for approval.

Should the CMA see value in our recommendation, we would suggest that we convene a small working team. This would include representatives from the CMA, UKF (as they have looked at OB

transition in detail) the OBIE and Pay.UK and would define the boundaries of the functionality that might sensibly transition to us.

We would then set out for your consideration a high-level transformation project. This would ensure that we, the industry and, as a result, end users were set up for success.

We note that, in 2018/19, we decided not to take on the responsibility for Open Banking due to the volume of work required to create the NPSO and the NPA Programme, and because Open Banking was looking at options far broader than just payments at that time.

Now, in 2021, with the transition to the NPSO behind us, we are confident that the synergies and benefits we set out are worthy of further exploration.

One further note, we have not answered the first four questions in the consultation as these focus on the CRM Code and its outcomes, and therefore we are not in a place to provide comment.

## **Potential synergies**

The CMA has stated that future arrangements for the governance of Open Banking must result in a framework that is:

### Independently-led and accountable

We have both an Executive suite and Board that are independent of our participants and we are accountable to our two regulators. Moreover, our open and transparent engagement model enables us to address the possibility that participants might attempt to slow development of the Open Banking ecosystem for their own commercial interests, as referred to in the Consultation.

We have two independent advisory councils that advise and challenge our Board. These are the End User Advisory Council and the Participant Advisory Council. These councils work on behalf of their respective communities, ensuring that we are true to our responsibilities. This in turn ensures that we keep the needs of all those who use our payment systems front and centre in our decision-making and that we enable the payments ecosystem to realise new opportunities, address persisting detriments and thereby unlock innovation and competition.

### Adequately resourced to perform the functions required

We will ensure that we are adequately resourced to transition (which would mean additional resources with additional skill sets to those we have today), deploy and develop any additional functionality for which we assume responsibility. For example, this would include developing standards for commercial APIs which are outside the remit of the OBIE as well as serving the needs of financial institutions to accommodate changes arising from the NPA. It seems optimal that the rules and standards across the full end-to-end payments value chain (from end user via PISPs and PSPs into the NPA) be determined by Pay.UK as a holistic approach.

### Dedicated to serving the interests of consumers and SMEs

We are dedicated to serving the interests of consumers and SMEs, with regulatory oversight provided by the PSR. This end user focus is core to our DNA, and applies across our roles. End users not only expect to see innovative payment-related functionality, but critically require that payments be safe, fast and secure. Providing robust and resilient infrastructure and processes are also activities with end users' requirements at their heart.

### Sustainable and adaptable to future needs of the ecosystem

Our business and funding models are designed to ensure we are sustainable and adaptable to the future needs of the payments ecosystem. Our horizon scanning and research activities ensure we identify emerging risks and opportunities so we can react and remain relevant. Our ecosystem is a shifting landscape – we do not stand still.

## **Potential benefits**

### Consolidation of rules and standards

Our recommended approach would consolidate the setting of rules and standards with Pay.UK as the natural home for this; facilitating end-to-end payments flows, reducing friction across the value chain and avoiding the externalities associated with multiple entities imposing different, potentially incompatible standards at different stages in a payment flow.

### Remove bureaucracy and complexity

Another major benefit of extending our role into the PISP area would be to enhance our ability to drive innovation and competition across the ecosystem. Innovators would have a single point of contact acting as the home for payments and sharing their aspirations to deliver value-added propositions for users. They would be spared the bureaucracy of having to manage multiple counterparties when developing, testing and deploying new products and services – and the concomitant negative impact on both innovation and competition.

### Risk management

Our recommendation takes into consideration the expectation of “potential day 2 evolutions”. The Consultation suggests that these could include the transition of Open Banking Payments to a Payment Arrangement framework, which we understand would see the PSP-to-PISP elements of OBIE's scope separated from the AISP and Smart Data elements at a later stage.

Our view is that this second transition could result in further governance disruption and transition risk across the ecosystem that could potentially be avoided by an initial move to the target end state. This needs to be considered carefully and balanced against the need to move at pace highlighted in the UK Finance report. We would be very happy to help lead active discussions in the team which does the analysis to understand the best route forward, including whether a new entity and thus a second transition is required.

**In conclusion**

We welcome the opportunity to explore the potential for Pay.UK to become the home for Open Banking payments / PISP-related activities, if this is the best solution for not only the industry, but also for the innovation and competition that will drive the best outcomes for end users and the economy.

Yours,

Matthew Hunt  
COO & Interim CEO