



Financial Data and
Technology Association

**Response to Competition & Markets Authority (CMA)'s
Retail banking market investigation: Provisional decision
on remedies**

7th June 2016

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1. About FDATA

1.1 The Financial Data and Technology Association (FDATA) The Financial Data and Technology Association is a trade association. Our members provide innovative financial applications and services to empower customers to make better decisions and take fuller control of their financial lives across all their accounts, credit cards, loans and investments.

1.2 We seek to work with government, regulatory authorities and financial industry stakeholders in our mission to open up the UK's financial sector to the benefits of financial data and technology.

1.3 Our current Board of Directors comprises of Gavin Littlejohn (Chairman), John Cameron (Account Technologies), Toby Hughes (Momentum Financial Technology), Ian Major (Runpath) and John Midgley (Intuit).

1.4 Our Membership Charter follows:

As Members of the Financial Data and Technology Association (FDATA), companies and their representatives agree to endorse and to follow the aims and values of the Association. They agree:

- *that by empowering consumers to leverage their financial data, through services of their choosing, they can make better financial decisions and achieve better financial outcomes;*
- *that all companies offering these services have obligations with respect to the security and privacy of their customers' data and that these are best serviced by participating in the creation and widespread adoption of rules that promote consumer confidence in our industry;*

- *that from time to time the Association will wish to make representations on behalf of the industry to government, authorities and stakeholders and as a Member we agree to play a full, productive and constructive part in that process;*
- *that when operating on behalf of the Association we will speak for the Association and the industry, being cognisant of all views, and that we will not use any opportunities created through Membership of the Association to attempt to achieve commercial advantage solely for our own company.*

2. About our response to your report

2.1 We have focussed our response to section 3 of your report - *Foundation remedies to make the PCA and SME banking markets work better for customers*. Indeed, we have further focussed within this section on the sub-section *Measures to develop and require the adoption of open API standards and data sharing*, which is most pertinent to the work of Members of the Association.

3. Our response to the Open Banking Standard

3.1 Our Executive Director, Andy Maciver, was a member of the Steering Committee of the Open Banking Working Group (OBWG), and therefore contributed to its Open Banking Standard (OBS). Furthermore, several of our Members' representatives acted as either co-chairs or members of OBWG's sub-groups.

3.2 Our response to the OBS was overwhelmingly positive. After publication, we said:

Third party providers of account aggregation and payment initiation services exist because consumers have demanded it. Consumers want a smooth and sophisticated way to analyse and manage their financial lives. They want their financial data – all of it, unredacted and in real time – in one place.

We were delighted to be involved in this report, the production of which brought together all of the industries required to make open banking a success, including banks, regulators and financial technology bodies.

We welcome the proposed framework which has been developed – the suggestions for how we operate standards, security and governance are robust and represent a solid foundation on which to build.

We are also pleased that the banking industry felt able to sign up to a report which makes clear that the passing of data to authorised third parties on behalf of consumers, in order to help them make better financial decisions, is both possible and desirable.

3.3 However, we highlighted four areas of concern:

- Timescale for implementation
- Scope of data in API
- Redaction
- Role for screen-scraping

We return to these themes below in our response to this CMA report.

4. Broad endorsement of the CMA's report

4.1 FDATA offers its strong endorsement to the broad thrust of section 3 of this report: *Foundation remedies to make the PCA and SME banking markets work better for customers.*

4.2 In particular, we strongly welcome and endorse the following:

4.2.1 The provisional decision, in section 3.13, to make an order requiring the largest banks in the British and Northern Irish markets to make PCA transaction data (amongst other data) available through an open API no later than Q1 2017

4.2.1.1 However, we do not believe these data sets need be limited to PCA data, nor should they be redacted, and we deal with both below.

4.2.2 The provisional decision, also in section 3.13, to require those banks to adopt and maintain open standards for APIs with full read and write functionality within a timetable agreed by the CMA.

4.2.3 Paragraph 3.18, which correctly identifies that the Midata process is a poor user experience (upload/download) and that its data is sub-optimal as a result of both limitation of scope and redaction.

4.2.4 The recognition, as noted in paragraph 3.22, that the UK can become a leader in this field by implementing open API standard in advance of the implementation of PSD2.

4.2.5 The provisional decision, in paragraphs 3.41 and 3.42, to reject calls for closed APIs in favour of open APIs, which will allow for greater competition for the benefit of consumers.

4.2.6 The recognition, in paragraph 3.42 in respect of data protection and in paragraph 3.55 in respect of security and authentication, that the OBWG through the OBS created a robust framework which requires no augmentation.

4.2.7 The provisional decision, as outlined in paragraphs 3.57-3.61, to maximise the number of SMEs which can benefit from third party financial technology providers using APIs, though a £6.5m upper turnover limit.

4.2.7.1 However, we are unconvinced of the need for *any* upper limit, and believe it could lead to inconvenience and confusion for those companies whose turnover may be above or below the threshold from year to year, as well as adding an unnecessary layer of complication to the creation of the mechanism.

4.2.8 The provisional decision, as explained in paragraph 3.70, to include in the CMA's mandate the largest market participants in Northern Ireland, in order that consumers in all parts of the UK can benefit from financial technology.

4.2.9 The recognition, in section 3.75, that there are areas of the OBS report in which the scope can be relatively easily widened.

4.2.10 The provisional decision, as outlined in paragraph 3.84, to bring forward by one year (compared to the OBS timetable) the adoption of write access within an open API standard, to the beginning of Q1 2018.

4.2.10.1 However, we are concerned at the scope of this data (limited to PCA and BCA) and we address this concern below.

4.2.11 The recognition, in section 3.88, that in the absence of consensus there may have to be imposition.

4.2.12 The recommendation, in paragraph 3.91, that the FinTech sector should be represented on the proposed Implementation Entity along with banks of all sizes.

4.2.12.1 However, we would highlight that this *may*, in the final analysis, be in conflict with your suggestion, in section 3.13, that the mandated banks be responsible for proposing to the CMA both the composition of the Implementation Entity and the Implementation Trustee/Chair of the Implementation Entity.

5. Assessment of how this report has addressed FDATA's concerns

5.1 In section 3.3 above, we noted our four legacy concerns following the publication of the OBS. These are:

- Timescale for implementation
- Scope of data in API
- Redaction
- Role for screen-scraping

We assess the impact of this report on those concerns below.

5.2 Timescale for Implementation

5.2.1 At the time of publication of the OBS, it remained our view that the proposed timescale was too timid and was insufficient in respect of meeting the aim of giving the UK a global advantage. However, a full five months has since passed with no action, and more time will inevitably pass before the CMA issues its final report and the Implementation Entity is established.

5.2.2 With that in mind, we endorse (with some caveats) the CMA's view that the OBS timetable should be met, and in particular, we welcome the CMA's proposal that write access through an open API be brought forward (compared to the OBS timetable) from the start of Q1 2019 to the start of Q1 2018.

5.2.3 *In summary, FDATA considers the CMA's proposed timescale to be satisfactory, with the exception of BCA data.*

5.2.4 **RECOMMENDATION:**

FDATA believes that, in its final report, the CMA should group BCA data with PCA data in the Q1 2017 deadline.

5.3 Scope of data in API

5.3.1 Notwithstanding FDATA's view on the suitability of screen-scraping (see section 5.5 below) we note the references throughout this CMA report (e.g. paragraphs 3.9, 3.30, 3.36, 3.37 and 3.53) which allude to a preference for the use of APIs rather than screen-scraping.

5.3.2 With this in mind, we have identified aspects of the OBS and of this CMA report which we believe will *prevent* rather than accelerate any shift by financial technology providers from screen-scraping to APIs.

5.3.3 The first relates to the scope of data proposed for inclusion in the API. During the process of composing the OBS, FDATA (ultimately unsuccessfully) argued that all financial data, including loans, mortgages, pensions, investments and so on should be included in the API.

5.3.4 The final OBS report suggested, instead, that only PCA, BCA, savings accounts and credit cards should be included in the customer transaction data scope - see [table 5.1 on page 14 of the OBS](#).

5.3.5 We believe that the CMA report has, inadvertently, further confused the issue of scope, particularly in the key paragraphs of 3.80 and 3.84. Each of these paragraphs specifies PCA and BCA data; however, OBWG (and OBS) intended that this should also include savings accounts and credit cards, both for personal and business consumers.

5.3.6 We remain entirely clear in our view that third party providers (TPPs) such as our members will react to customer demand by obtaining, for them, their data, whether through screen-scraping or an API. Therefore, even if one assumes that those TPPs would prefer to use an API rather than to screen-scrape, it is inevitable that any financial data *not* available in an API will be scraped. Under the OBS proposals, we would expect most providers to use an API for PCA, BCA, savings accounts and credit cards, but to screen scrape the rest. It would be incorrect, therefore, for the CMA to assume that TPPs will simply stop screen-scraping any data which is not in the API. For those who wish to see screen-scraping replaced by APIs, the only logical conclusion is to ensure that the API contains *all types* of financial transaction data.

5.3.7 RECOMMENDATION:

FDATA considers that the CMA's report has not addressed our concerns in terms of scope, and recommends that in its final report it expands the scope proposed by the OBS to compel the placing of all financial data in the API, including PCA, BCA, savings accounts, credit cards, loans, mortgages, investments, pensions and anything else which could be expected to constitute a customer's transactional data.

5.4 Redaction

5.4.1 Our views on redaction complement those on the scope of data. Recognising the CMA's tendency in favour of APIs over screen-scraping (and again notwithstanding our own views, as outlined below in section 5.5), we would suggest that accepting the presence of redacted data (as you have in paragraph 3.84) is likely to *prevent* rather than accelerate any shift by financial technology providers

from screen-scraping to APIs. It is an unnecessary detour which will slow down this process.

5.4.2 FDATA's considered and researched view is that TPPs would rather screen-scrape *unredacted* data than accept, on behalf of consumers, *redacted* data through an API. **It is imperative that the CMA understands that this will be the likely eventuality of allowing redacted data, and therefore the CMA's anticipated market impact is highly unlikely to materialise.**

5.4.3 We are opposed to the focus on Midata as a first step. We do not believe that there are any technical, security or legal impediments (a position endorsed by the Information Commissioner's Office during the OBWG process) to the availability of unredacted data through the API in the same timescale as that envisaged for redacted data. Indeed, we expect the process of providing redacted data could be longer and more expensive than providing unredacted data.

5.4.4 We note that Lloyds Banking Group, in [its submission to you of 5th February 2016](#), recommended that "*the CMA should mandate a 12 month deadline for delivery of current account APIs, using unredacted midata*" (our emphasis).

5.4.5 RECOMMENDATION:

In summary, FDATA considers that the CMA's report has not addressed our concerns in terms of redaction, and recommends that in its final report it makes an order requiring the aforementioned banks to make unredacted data available through an open API according to the same timescale.

5.4 Role for screen-scraping

5.4.1 We note the references throughout this CMA report (e.g. paragraphs 3.9, 3.30, 3.36, 3.37 and 3.53) which allude to a preference for the use of APIs rather than screen-scraping.

5.4.2 TPPs which screen-scrape normally do so because there is currently little alternative option available.

5.4.3 FDATA regards screen-scraping as imperfect; it can be cumbersome, it does not make transaction data available with the speed which would ideally be desired, and it is less reliable than TPPs would wish. It is an imperfect way to service customer need. As a result, they *all* wish to use APIs.

5.4.4 Many banks have actively attempted to prevent their customers from using screen-scraping TPPs, on account of a possible breach of the account terms and conditions. This has made the FinTech industry a difficult marketplace in which to operate, and ultimately has led to consumers receiving a less well developed service than would otherwise be the case.

5.4.5 However, FDATA also considers screen-scraping to be safe. There has been no single occurrence of fraud perpetrated as a result of screen-scraping in the UK. The companies who build screen-scraping technology, and those who use it, have data security as their primary priority in accordance with the fact that it is the primary risk to their business. In this respect we disagree with the assertion in paragraph 3.53 that there is an implied high risk with screen-scraping.

5.4.6 FDATA believes that the safety or otherwise of screen-scraping is dictated by the quality of the organisations who use it; the same as is true with APIs. To that end, we see no reason why TPPs which meet the standards required to be considered a 'safe' API user should not also be permitted to use screen-scraping, should they so wish, without their customers fearing recrimination from their bank.

5.4.7 RECOMMENDATION:

In summary, FDATA considers that the CMA's report has not addressed our concerns in terms of the role of screen-scraping. Although we anticipate that an open API containing full and unredacted data will marginalise the use of screen-scraping, we nonetheless recommend that the CMA takes the following measures in its final report:

- *Require banks to alter their Terms & Conditions (where required) to enable TPPs which are approved to handle data from an API to also handle data through screen-scraping, should they choose to do so*
- *In the event that the CMA is unprepared to do this in perpetuity, mandate a period of transition to allow TPPs which have built their customer base using*

screen-scraping to transition their customers to an API without fear of recrimination from using screen-scraping in the interim

6. Composition of the Implementation Entity

6.1 In addition to the three recommendations outlined above, we suggest that in its final report the CMA considers some changes to its proposals for the Implementation Entity.

6.2 Whilst we welcome paragraph 3.91, which suggests that the FinTech sector should be represented on the Implementation Entity, we are concerned that this may, ultimately, be unaligned with the proposal in section 3.13 which requires the large banks to propose both the composition and Chair of the Entity.

6.3 We believe that the large banks represent only one end of the spectrum of opinion, with the rest of the spectrum populated by smaller banks, challenger banks, FinTechs and other sectors with an interest in financial data and technology such as insurance, investments, credit reference and so on.

6.4 *RECOMMENDATION:*

We recommend that, in its final report, the CMA clarifies that:

- The Implementation Entity must be populated in a balanced way, with equal representation for different types of banks, different financial sectors and FinTechs*
- The other aforementioned sectors, including the FinTech sector, have equal opportunity to propose an appropriate Chair of the Implementation Entity.*

6.5 FDATA will continue to work collaboratively with a variety of stakeholders including HMT, the BBA, Payments UK, the FCA and the CMA, amongst others.

6.6 FDATA is currently writing a paper which will make a detailed suggestion on how we can best and most quickly reach the outcome desired by HM Government, its agencies, the industry and the UK's financial consumers. This paper will be released in due course.