



Department for
Business, Energy
& Industrial Strategy

Next steps for Smart Data

Putting consumers and SMEs in control of their data and enabling innovation

September 2020



OGL

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Any enquiries regarding this publication should be sent to us at: smartdatareview@beis.gov.uk

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Ministerial Foreword



Data plays a central role in our lives, from data on energy usage to data helping us navigate. Covid-19 has shown both the benefits of data, and the importance of using it securely, ethically, and well. Looking ahead, the government is committed to a system where data works to benefit our citizens and drive economic recovery.

The National Data Strategy will set out the government's vision for the UK as a world-leading data economy. A key mission of the strategy is to unlock the value of data across the economy by creating an environment where data is appropriately useable, and available across businesses and organisations. The first step will be developing a clear policy framework to identify where better data access and availability can support innovation and growth.

This document focuses on the data that firms hold about customers and their purchases, and announces our plans to build a more efficient and secure system – Smart Data - where we can each securely enable trusted third parties to help us access, make sense of, and use our own data.

Customers can already request data about themselves, but it is provided slowly, in hard-to-use formats, and often without the contextual information needed to make it useful. This makes it hard and time consuming for individuals or small businesses who want to use their own data to inform decisions about their purchases or providers. Those that want to use a third party to simplify this process may find themselves using risky unregulated methods like password sharing to do so.

Customers should not have to work this hard or take risks to get better deals or use their own data. Making the process easier would facilitate innovation – enabling multiple utility bills to be managed in one place, prompts to be shared when better deals (that match customers' preferences) become available, and reducing paperwork for small businesses.

The biggest inhibitor to these innovations is not technology, but the lack of a framework to securely access, use and share data. Through Open Banking, where this framework is already in place, over 250 companies are involved in offering innovative services to over 1 million consumers and SMEs, showing the value that can be unlocked by secure and standardised data portability.

In last year's Smart Data Review we consulted on how to improve customer outcomes by accelerating the development and use of Smart Data in sectors beyond banking, and respondents agreed there are huge potential benefits from making it easier and more secure for customers to get help in using their data. While data portability initiatives are developing in finance, energy, communications, and pensions, progress lags behind banking and it is still too hard and time consuming for customers to find the best deals, with disengaged consumers paying an estimated £4 billion a year more than if they were on equivalent new deals.

Today's publication sets out the next steps that the government is taking to accelerate these initiatives, benefiting consumers, businesses, and the economy. We are laying the foundations for cross-sector innovations and higher-quality data-sharing systems in regulated sectors, and across the wider economy, built on innovation, security, and trust.



PAUL SCULLY MP

Minister for Small Business, Consumers & Labour Markets
Minister for London

Summary

1. Smart Data is the secure and consented sharing of customer data with authorised third-party providers. These providers then use this data to provide innovative services for the consumer or business, such as automatic switching and account management. This saves time, money and effort for customers who can more easily find and choose better-suited deals.
2. The most advanced Smart Data initiative and the best example of how it works in practice is Open Banking. Building on the UK's leading fintech sector, Open Banking is being used in services from budgeting for consumers to invoicing for SMEs. The UK has led the way globally with Open Banking, which now has over a million individual and SME users, and over 250 authorised third parties and account providers.¹
3. In the July 2019 Smart Data Review² we consulted on whether and how to extend the benefits of Smart Data to other sectors, and received responses from the technology, energy, communications and financial sectors, as well as charities and academia.
4. Respondents were in favour of the extension of Smart Data. They also:
 - Supported a new Open Communications initiative (adding to initiatives developing in energy, finance, and pensions). Some advocated for Smart Data in education, retail, transport, and health. Since the review, Ofcom has launched work on the Open Communications initiative, with a consultation due to close in November 2020.³
 - Were generally in favour of legislation to mandate industry involvement in Smart Data initiatives (though some wanted more time for voluntary approaches to develop first).
 - Agreed government should increase coordination across sectors. They said this should be flexible to sector-specific needs, and clear on the role of sector regulators, any cross-sector bodies, such as the Smart Data Function proposed in the review, and organisations like the Information Commissioner's Office.
 - Raised detailed points about oversight and regulation of Smart Data initiatives and the firms involved, including comments on how schemes should be funded.
 - Welcomed the review's emphasis on making sure that Smart Data benefits vulnerable consumers and made some suggestions about how to do so.
5. This document announces next steps on cross-sector Smart Data work:
 - Primary legislation, when Parliamentary time allows, extending the government's powers to mandate participation in Smart Data initiatives.
 - Launch of a cross-sectoral Smart Data working group to accelerate existing Smart Data initiatives and coordinate across government, to ensure consistency and avoid duplication. The focus will initially be on communications, energy, and finance, helping

¹<https://www.openbanking.org.uk/about-us/latest-news/open-banking-adoption-surpasses-one-million-customer-mark/>; <https://www.openbanking.org.uk/about-us/latest-news/open-banking-highlights-june-2020/>

² <https://www.gov.uk/government/consultations/smart-data-putting-consumers-in-control-of-their-data-and-enabling-innovation>

³ <https://www.ofcom.org.uk/consultations-and-statements/category-1/open-communications>

to inform the development of high-quality standards, and will include detailed consideration of how schemes should be coordinated and regulated in the long term, as well as how they can best benefit vulnerable consumers.

6. Alongside this document we are publishing a Terms of Reference for the Smart Data working group. Topics which the working group will consider are set out at the end of this document and we would welcome further input from stakeholders on these areas. We are also publishing an Impact Assessment for the proposed legislation and welcome comment or evidence on the costs, benefits and risks of the proposal, and estimates of their scale.

Introduction

7. Smart Data is the secure and consented sharing of customer data with authorised third-party providers (TPPs).⁴ These providers then use this data to provide innovative services for the consumer or business, such as automatic switching and account management.
8. The UK has led the way globally with Open Banking, the most advanced Smart Data initiative. This builds on the success of the UK's leading fintech sector and has facilitated start-ups like Moneybox who help over 450,000 people save and invest for their future, and Xero who reduce bureaucracy from invoicing, payroll & expensing for over 600,000 UK SMEs.⁵ The range of innovations which have emerged in banking shows that valuable services develop using customer data once it is made more easily accessible. Beyond banking, Smart Data initiatives exist at earlier stages of development in finance (Open Finance⁶), energy (Midata), pensions (Pensions Dashboards) and, more recently, communications (Open Communications).
9. In July 2019 the government published the Smart Data Review,⁷ which consulted on how to advance Smart Data, put consumers in control of their data, and enable innovation. This document summarises responses and announces the government's next steps:
 - Primary legislation, when Parliamentary time allows, extending the government's powers to mandate participation in Smart Data.
 - Launch of a cross-sector Smart Data working group to coordinate and accelerate existing Smart Data initiatives across regulators and government, to ensure consistency and avoid duplication. The focus will initially be on communications, energy, and finance, helping to inform the development of high-quality standards to enable cross-sector innovations.
10. These next steps relate to several key questions asked in the consultation. Other questions, and the responses received, will feed into the detailed design of legislation, and be taken into account in the work of the Smart Data working group.
11. For too long it has been too hard and time consuming for consumers to access and use data that suppliers hold about them, and to access innovative new services that use this data. We think these measures will allow us to solve this problem, saving customers time, money and effort, and that government intervention is needed to coordinate and incentivise action across sectors.

⁴ A third-party provider (TPP) could be either an existing data holder or a new or existing provider who uses data from other data holders. The requirement to be authorised means they have met relevant, and likely sector specific, criteria to access the data.

⁵ <https://www.moneyboxapp.com/the-july-round-up-2020/>; <https://www.xero.com/uk/> - figures from 2020 annual report

⁶ Open finance refers to the extension of open banking-like data sharing and third-party access to a wider range of financial sectors and products, with explicit consumer consent. The scope could include savings, mortgages, consumer credit, investments, pensions, and insurance.

⁷ <https://www.gov.uk/government/consultations/smart-data-putting-consumers-in-control-of-their-data-and-enabling-innovation>

12. The government is committed to an economy where consumers' data works for them, and innovative businesses thrive. We expect that the extension of Smart Data will, in time, deliver new innovative services, stronger competition in the affected markets, and better prices and choice for consumers and small businesses, including through reduced bureaucracy. Competitive data-driven markets can reduce friction for established market players, and drive start-ups, investment, and job creation.
13. The importance of government action is shown by the impact of COVID-19, with digital services now even more central to our economy. Several Open Banking solutions responded directly to Covid-19, such as Swoop's support for Coronavirus Business Interruption Loan Scheme applications which claims to reduce the process from 5 weeks to 3 days, and Tully's tool which had provided debt support to over 17,000 individuals by August 2020.⁸ This shows how fast new solutions can develop when government creates a facilitating environment, and this is the ambition for Smart Data.
14. In taking this action now, we are building on the success of Open Banking. Smart Data can extend the UK's global lead and lay the foundations for data-driven services across the economy built on innovation, security and trust.
15. As highlighted in the Smart Data Review, Smart Data could be beneficial in any market where consumers cannot easily access useful data about themselves and this data can be used to help inform choice and enable innovation. However regulated markets are our priority to target initially, due to their essential nature and poor consumer outcomes, such as the existence of a £4 billion 'loyalty penalty' each year.⁹

Existing Smart Data initiatives

16. Open Banking, the most advanced Smart Data initiative and first of its kind globally, gained momentum in 2018. This was a result of the Payment Services Regulations (PSRs), transposing the EU's Second Payment Services Directive (PSD2) in the UK and the Competition and Markets Authority's (CMA) Retail Banking Order¹⁰ which mandated participation for the nine largest UK banks, paving the way for them and many smaller firms to create new services. Open Banking covers payment accounts. This typically includes current accounts and credit card accounts as well as some savings accounts. There are now over a million individual and SME users, involving over 250 authorised third parties and account providers.¹¹ Further functionality and additional payment services are in development.

Open Banking and the benefits to consumers and SMEs

⁸ <https://swoopfunding.com/> ; <https://www.tully.co.uk/>

⁹ <https://www.gov.uk/government/news/cma-publishes-loyalty-penalty-update> - The loyalty penalty is typically defined as the difference between the price paid by longstanding customers and new customers for similar goods. These differences represent the potential saving that individual longstanding customers might currently make if they switched to another deal, i.e. they do not represent the total saving that would result if the gap between prices charged to longstanding and new customers were reduced.

¹⁰ <https://www.gov.uk/government/publications/retail-banking-market-investigation-order-2017>

¹¹ <https://www.openbanking.org.uk/about-us/latest-news/open-banking-adoption-surpasses-one-million-customer-mark/>; <https://www.openbanking.org.uk/about-us/latest-news/open-banking-highlights-june-2020/>

Open Banking¹² remains in the implementation phase, but significant benefits can already be seen. The Open Banking Implementation Entity estimates the potential annual benefit from Open Banking at £12bn for consumers, and £6bn for SMEs users.¹³ Uses include:

Viewing multiple bank accounts in a single app: this is integrated into most high-street banking apps, but also provided by start-ups like Snoop, Yolt and Money Dashboard.

Simplifying everyday tasks: for example, Fronted and Credit Kudos streamline housing affordability checks; Canopy offers a deposit-free renting service; ApTap helps manage bills; Monzo has removed the need to enter banking credentials when making transfers.

Helping SMEs with paperwork: examples include Circuit who connect financial auditors directly to business bank accounts and Ember who offer streamlined accounting services.

Services targeted at those in need: for example, Kalegra alerts a trusted contact if there is unusual activity on the account.

17. UK Smart Data initiatives also exist at early stages of development in finance, communications, pensions and energy, led by sector regulators and their sponsoring government departments.

Smart Data and data portability initiatives in regulated sectors

Open finance: in June 2019 the Financial Conduct Authority (FCA) committed to leading this initiative, building on Open Banking and covering a wider range of services (such as savings, mortgages, consumer credit, investments, and insurance). A call for input is due to close in October 2020.¹⁴

Pensions Dashboards (providing a display function only): led by the Department for Work and Pensions (DWP), working closely with the Money and Pensions Service (MaPS), the Pensions Regulator and the FCA. This initiative will enable consumers to view all their existing pension pots in one clear dashboard format. This was announced in 2016 and is included in the Pensions Schemes Bill introduced in Spring 2020.¹⁵

Midata¹⁶: first announced in 2011 and initially led by the Department for Business, Energy and Industrial Strategy (BEIS). This aims to enable services including faster, more accurate, tariff comparisons. The Office of Gas and Electricity Markets (Ofgem) have been responsible for delivery since mid-2018 – and decided recently to pause Midata development for 2020/21 to ensure alignment with wider energy industry programmes.¹⁷ Recently Innovate UK have launched the Modernising Energy Data Access competition.¹⁸ This competition is hoping to surface appropriate digital infrastructure for the exchange of data in the energy sector as well as with other related sectors like transport, for example.

Open Communications: proposed initiative for the communications sector announced in the Smart Data Review. As for energy this could enable easy tariff comparison and, in

¹² <https://www.openbanking.org.uk/>

¹³ <https://www.openbanking.org.uk/wp-content/uploads/Consumer-Priorities-for-Open-Banking-report-June-2019.pdf>

¹⁴ <https://www.fca.org.uk/publications/calls-input/call-input-open-finance>

¹⁵ <https://services.parliament.uk/Bills/2019-21/pensionschemes/documents.html>

¹⁶ <https://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/midata-energy-project>

¹⁷ <https://www.ofgem.gov.uk/publications-and-updates/update-midata-energy-programme>

¹⁸ <https://innovateuk.blog.gov.uk/2020/05/29/modernising-energy-data-access-and-the-winners-are/>

combination with other Smart Data initiatives, holistic money-management services. The Office of Communications (Ofcom) have led the development of the initiative, with a consultation currently live and due to close in November 2020.¹⁹

18. There is scope for many of the business models which have emerged in banking to extend across these sectors. For example, the ability to view all utilities accounts in one place would save time for consumers and give a holistic view of spending on utilities, and apps which auto-populate forms would make it quicker and easier for businesses managing their finances and applying for loans. These examples and the use cases highlighted in banking are far from exhaustive, and we would expect new innovations which we have not envisaged to emerge across sectors as markets and technology continue to evolve.
19. Some similar services already exist, however without the secure Smart Data infrastructure and standards they rely on riskier methods such as password sharing and screenscraping. This demonstrates that there is an appetite – confirmed by what TPPs have told us - to use customer data, once it more easily accessible, to offer innovative services to the customer.
20. We see an opportunity to coordinate and accelerate across initiatives, ensuring the standards that are developed can drive cross-sector innovations. These developing initiatives in each sector are facing many common challenges but addressing them independently. Examples include designing and developing mechanisms for consent and accreditation – that is, ensuring data is only shared with the customer’s permission, and with trusted third parties. This may lead to slower progress than can be achieved by working together, and risks duplication of work or divergent approaches which limit future interoperability. These initiatives have faced some challenges in getting industry on board which has delayed progress further.

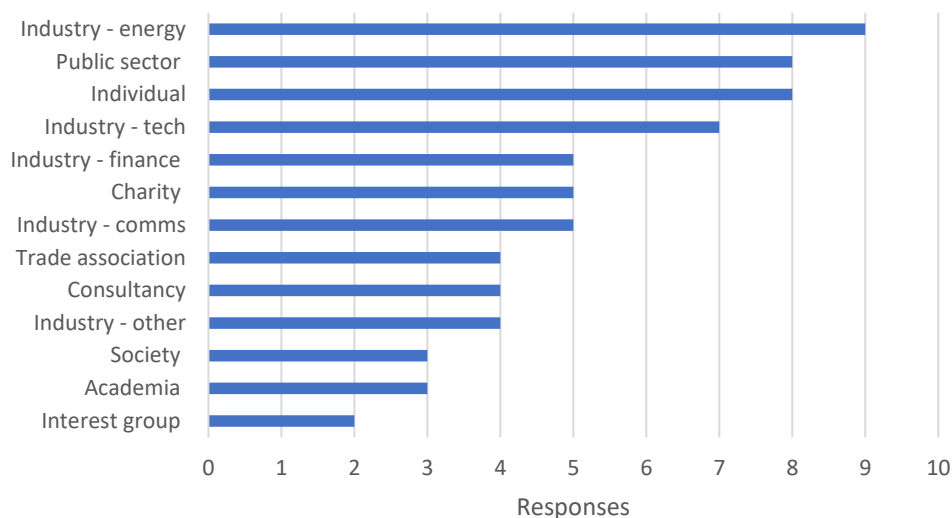
Consultation summary and next steps

21. The Smart Data review consulted on proposals for how the government can facilitate the development of Smart Data initiatives that give consumers in regulated markets the ability to safely, securely and instantly transfer their data to TPPs. The review stressed that consumers should be at the centre of all proposals, with an emphasis placed on giving all consumers a secure, seamless and consistent Smart Data experience across sectors.
22. We received 67 consultation responses. These were from businesses across industries including energy, technology services, communications, and finance as well as from public sector organisations, consultancies, interest groups and national institutions/societies²⁰. We are grateful to all respondents for their contributions.

¹⁹ <https://www.ofcom.org.uk/consultations-and-statements/category-1/open-communications>

²⁰ Many respondents work across sectors; for example, providing tech-based services in the energy industry. The industry classifications in the graph are based upon the nature of the primary goods/services provided. ‘Industry - tech’ includes online comparison sites and switching services, across industries. ‘Industry – other’ includes, amongst others, transport and engineering companies. ‘Industry – finance’ includes banking, insurance and credit reporting services.

Figure 1: Respondent type breakdown



23. Below is a summary of key themes raised in responses, and the government's proposed next steps to advance this work. A more detailed summary of responses is at Annex 1. While detailed next steps are not proposed in relation to each consultation question, the broader themes raised, and detailed responses given, will inform future work. We also continue to engage with respondents and other stakeholders on many of the more detailed aspects of the proposals.

Delivering Smart Data across sectors

24. The consultation invited views on the best approach to expand regulated sector Smart Data initiatives - including an 'Open Communications' initiative proposal to be led by Ofcom - and invited suggestions on which non-regulated sectors would benefit most from Smart Data initiatives (Consultation questions 1-4).
25. Respondents supported the principle of Smart Data, and acknowledged the changing nature of the economy, and growing importance of data-driven markets. They highlighted the interaction of consumers and workers with this changing economy, and the role that Smart Data could play. For example, the increased prevalence of self-employment and flexible work means consumers may benefit from new financial tools and services.
26. Respondents acknowledged, however, that the policy proposals are in the early stages of development and that more thinking is required on both strategic and implementation aspects.
27. There were mixed views on the sectors in which Smart Data initiatives would drive the most consumer benefits. With some exceptions, there was agreement that consumers could benefit from the introduction of Open Communications, helping them to navigate complex information which could otherwise confuse consumers about which deal is best for them. The importance of sharing non-price characteristics to make meaningful comparisons in the sector was emphasised, for example coverage, speed and customer service. There was support for similar existing initiatives in energy, pensions, and

finance. Respondents emphasised the importance of leveraging the experience and expertise accumulated in Open Banking.

28. Outside of these regulated sectors, the benefits of introducing Smart Data to education, retail, transport and health²¹ sectors were raised and discussed; for example, if introduced for education, an initiative could enable individuals to view all past education records and easily pass this information to a prospective employer. Some respondents highlighted the sharing of public sector data as a potentially important enabler; for example, DVLA or Passport Office data could be used to verify personal identity for services making use of other sensitive data.
29. Since the Smart Data review, Ofcom has begun the Open Communications project. While the government's focus remains initially on regulated sectors, it notes the potential for Smart Data in further sectors and aims to establish frameworks for the regulated sectors which can be applied more broadly.

Legislating to mandate participation

30. The Smart Data Review consulted on a proposal to legislate, when Parliamentary time allows, to mandate firms' participation in an 'Open Communications' initiative, and to give government the power to introduce Smart Data initiatives in any other market. This was motivated by the fact that successful implementation of Smart Data initiatives requires participation by the firms that hold consumers' data.
31. Respondents agreed that it is important to have a strong mechanism to incentivise industry to deliver Smart Data initiatives. Except for some communications providers, the proposal to legislate to mandate industry involvement in communications specifically was broadly supported by respondents. Several stakeholders also argued that voluntary schemes in each sector should be given time to develop, rather than mandating participation.
32. We consider that a voluntary approach would lead to continued slow progress, and possible duplication of work across sectors. In addition to the support for legislation in consultation responses, feedback from those involved in Open Banking is that mandating participation is a key step. Open Banking was around for a decade before it picked up pace, and the key impetus was legislation requiring banks to participate and fund an implementation body.
33. The General Data Protection Regulation (GDPR) provides the "right to consumer data", and there are existing statutory powers which could be used to mandate that firms participate in sharing consumer data.²² However we do not consider that these powers are enough to deliver the full benefits – and safeguards - we consider necessary. For example, existing powers do not include the sharing of product data, or the requirement for TPPs to be accredited. Both of these requirements have been highlighted by respondents as key aspects of a Smart Data initiative.

²¹ It should be noted that while some respondents were in favour of introducing health data to Smart Data initiatives, some were strongly opposed to it

²² Sections 89-91 of the Enterprise and Regulatory Reform Act 2013

34. To resolve this problem, the DWP is currently progressing primary legislation to mandate industry participation in Pensions Dashboards.
35. We now plan to legislate to make it possible to mandate industry involvement in Smart Data initiatives across the economy, and will introduce primary legislation when Parliamentary time allows. This power will cover communications and other regulated sectors, but will also make it possible, when and if appropriate, to extend Smart Data to other sectors like retail and transport.
36. The mandating of specific Smart Data initiatives, and aspects of their design (such as funding model and enforcement), will be subject to secondary legislation, further to consideration of the circumstances in the specific sector. This process will be subject to a more detailed assessment of sector-specific impacts, and consultation.
37. We want to send a strong message to consumers and industry that Smart Data initiatives will be coming, helping to accelerate their development and uptake and enable consumer and business benefits to be realised as early as possible. This provides a clear incentive for industry to engage at the early stage of development across initiatives, helping shape the future landscape for Smart Data in which they will play a key role.

Cross-sector oversight

Smart Data Function

38. The consultation asked a number of questions about the practicalities of implementing Smart Data initiatives, including about the role government should perform (consultation question 5). The consultation proposed establishing a Smart Data Function (SDF) as a cross-sector body working across existing initiatives, with responsibilities including setting standards and managing the accreditation of TPPs (Consultation questions 6-7).
39. With the exception of several respondents, a cross-sector function was welcomed as a way to increase coordination between sectors, reduce duplication and drive interoperability. There were mixed views on whether such a SDF should focus on strategic oversight or more technical coordination and whether it should be a new body or fit in an existing organisation.
40. Many respondents suggested that there is an important role for government in setting a clear strategic vision and desired outcomes for Smart Data. They emphasised the need to work within, and not in isolation from, the existing context. This includes existing cross-governmental work and guidelines, such as GDPR, and existing progress that has been made in individual sectors. Respondents said that work is needed to clarify the wider digital policy and regulatory landscape in relation to Smart Data, including the roles and responsibilities of the Information Commissioner's Office (ICO) and sector regulators, and how any SDF aligns with and complements them.
41. However, some respondents were cautious about a SDF seeking too much consistency across sectors. Many respondents emphasised the importance of sector-specific expertise, highlighting that successful implementation of a Smart Data initiative, and potential regulation of the activities of TPPs, requires detailed understanding of the nature of the sector and the services it provides. For example, there is a need to

understand the importance of price and non-price competition in the sector. Many therefore viewed this as a role for sector regulators, with a potential need for government to ensure some cross-sector coordination and harmonisation across initiatives.

42. There were mixed views in consultation responses on how both any formalised SDF, or other cross-sector oversight, and the underlying initiatives should be funded. For the initiatives themselves, respondents emphasised that funding should be appropriate to the initiatives in scope and depend on the value of data shared, the potential use and who the TPPs are. The two most common suggestions were data providers funding implementation for core APIs, with the option of additional services and premium APIs paid for by TPPs, and the same approach but with a mechanism for data providers to charge TPPs for access to all data.

Launch of a Smart Data working group

43. To progress the goal of cross-sector coordination and Smart Data initiatives that are interoperable where appropriate, we are now launching a BEIS-led Smart Data working group. The working group will coordinate and accelerate existing Smart Data initiatives across government to ensure consistency and avoid duplication. If we do not act now, there is a high risk that Smart Data initiatives will continue to develop at different paces and in different directions, limiting the scope for interoperability and innovations spanning across sectors.
44. The group will involve representatives from BEIS, DCMS, HMT, DWP, Ofgem, Ofcom, the FCA, the CMA, the UK Regulators Network, and the ICO as an observer. To ensure the wider context is considered, it will draw on academic and industry expertise and will conduct bespoke research as relevant to supplement existing evidence. The working group will consider in more detail key aspects of Smart Data initiatives set out in the consultation, including accreditation, authentication, consent, and liability; this will build on responses received. Since publishing the Review, we have commissioned and published research projects looking into these topics to help inform the next steps for the working group and the research questions to be considered.²³
45. The primary objective of the working group will be to support the development and delivery of Smart Data infrastructure for the benefit of consumers, particularly vulnerable consumers.
46. The working group's Terms of Reference has been published alongside this document. It will require the group to produce after six months, in Spring 2021:
 - Recommendations for the implementation of interoperable Smart Data initiatives which deliver specific tangible innovations.
 - Guidance and common resources for existing data portability initiatives to ensure consistency and reduce duplication. This aims to benefit consumers and businesses by accelerating the development of initiatives, enabling the earlier realisation of benefits.
 - Recommendations on areas to standardise across Smart Data initiatives in different sectors. This will involve further detailed consideration of aspects included in the consultation, such as accreditation and authentication. This aims to benefit consumers

²³ <https://www.gov.uk/government/publications/smart-data-research-on-consent-liability-and-authentication>

and businesses by better enabling cross-sector innovations. The working group is not seeking to align all aspects of Smart Data initiatives. As highlighted in consultation responses, not all Smart Data solutions will look or work the same way because the problems they are trying to fix will be different. Therefore, sector-specific project teams will continue to drive forward their initiatives, while the working group focuses on cross-sector challenges.

47. Both funding and form for the implementation of interoperable Smart Data initiatives will be considered in more detail following the working group's initial recommendations. The funding approach in individual sectors will be sector-specific, albeit informed by the work of the working group.

Consumer protection and vulnerable consumers

48. The review asked a number of detailed questions about how to protect the security of consumers' data, with a specific focus on TPPs (Consultation questions 12-15). The review also committed to placing the needs of vulnerable consumers at the centre of future Smart Data initiatives, and, accordingly, at the heart of the proposed SDF. This included a possible 'Vulnerable Consumer Challenge' and considering whether the powers of sector regulators need to be strengthened to better enable support for vulnerable consumers (Consultation questions 9-11).
49. Respondents welcomed the focus on consumer protection and data security. Ensuring the security of all data that is shared – not just data typically viewed as sensitive or high risk - was seen as critical to both building consumer trust and protecting consumers' best interests more broadly. Consumer protection and data security will be central to the work of the working group, requiring further consideration across sectors. Providing a clear liability framework for any data loss or misuse was also stated by numerous respondents as a key part of both protecting consumers and building trust.
50. Respondents told us that the focus of work on Smart Data initiatives should be on maximising consumer benefits, and that this applies both to the process of deciding which sectors to launch initiatives in, and to the design of schemes. Respondents also said that the design of initiatives and their regulation should be informed by an understanding of how consumers behave and interact with goods and services in different markets. This includes considering in detail the function of any data shared as well as how it is shared, potentially through testing and targeted engagement with consumers in different markets.
51. Many respondents raised the point that consumer engagement in initiatives – to realise their benefits - requires building trust in Smart Data-led products and services. Transparency and control over data were highlighted as important principles for promoting engagement in Smart Data initiatives. Consumers should be able to see clearly how their data is being used, fully understand what their rights are and be active in realising them; for example, taking action to withdraw data-sharing consent when they wish to.
52. Respondents emphasised the need to be forward-thinking about the potential benefits and risks of Smart Data, given the speed at which digital and data markets are evolving. Respondents noted the implications of this for regulatory design principles: a need for adaptive regulation that can keep up with the fast-moving tech environment.

53. Respondents also suggested that the accreditation requirements for TPPs should be proportionate to the level of risk in the data they wish to access; several respondents suggested a tiered approach to accreditation based on the level of risk. A cross-sector authorisation system for TPPs to access data was welcomed by some, but others suggested that this would be better placed at an individual sector level and led by sector regulators, with further consideration at the sector level required.
54. Respondents welcomed the emphasis on vulnerable consumers described in the review. Many of the suggestions for protecting vulnerable consumers would benefit consumers more generally, for example, ensuring consumers are meaningfully educated about their rights. However, it was noted that these are particularly important for vulnerable consumers, and potentially more challenging to address. Suggestions to improve outcomes for vulnerable consumers through Smart Data initiatives included formal sharing of best practice between initiatives, targeted monitoring of vulnerable consumers' participation in initiatives and ensuring Smart Data-led products and services are designed as accessible by default. It was also noted by multiple respondents that it can be difficult to define 'vulnerability' and that it may differ between sectors.
55. There was support for the proposed Vulnerable Consumer Challenge, to bring together innovators, charities and regulated businesses to stimulate the development and deployment of innovative data-driven technologies that improve outcomes for vulnerable consumers. This would involve a bidding process to receive funding to develop a product targeted specifically at vulnerable consumers.
56. We hope to launch a Vulnerable Consumer Challenge, however it is important that this coincides with the launch of sector initiatives so that vulnerable consumers can benefit as the initiatives are rolled out. The Challenge is expected to operate across three sectors in which Smart Data initiatives are planned: energy, finance, and communications. We will therefore do more work to understand the implementation timelines across these sectors, and to involve sector expertise in the planning process. The Challenge will build on lessons from the Open Banking for Good challenge.

Open Banking for Good challenge

The Open Banking for Good challenge was launched in 2018 by Nationwide to improve financial capability for the financially squeezed.²⁴ With £3m funding available, seven successful fintechs, out of more than 50 applicants, are now working with Nationwide and several charities to develop and roll out the following services:

Flow (Rai™): focuses on expenditure smoothing, ensuring billers know the best time to ask for money, by helping users pay for bills when they have the money.

Trezeo: turns unpredictable self-employed income into a regular payment cheque

Ducit.ai: uses AI to categorise Open Banking data and quickly calculate income and expenditure, enabling the Money Advice Trust to provide higher quality advice

OpenWrks: uses conversational AI to create accurate income and expenditure statements online in minutes, reducing the time advisors spend collating this information

²⁴ <https://www.openbankingforgood.co.uk/>

Squad: will allow people to set financial goals amongst friends and that group can then support one another other to achieve them

Touco: gives you encouragement to become more aware of your spending, with the option to send alerts to a trusted ally when support is needed

Tully: offers financial advice, debt support and a world first - data led, personalised Money Coaching

Early impacts from the incubate phase of the programme include fast tracking new socially useful ideas and developing prototypes. The fintechs are developing a deeper understanding of challenges and their audience, while benefitting from brand association with a large building society. Charity partners are benefitting from quality conversations with fintechs, making Open Banking tangible and offering a close-up view of fintech design and development.²⁵

57. Examples of innovations the Vulnerable Consumer Challenge will seek include:
- Support services: Helping carers or appointed attorneys to assist vulnerable consumers to manage their finances and essential services
 - Money management tools designed for vulnerable consumers: Helping consumers identify the best deals across sectors and to use their money in a more effective way
 - Tools to identify vulnerability needs: Helping companies and organisations to identify consumers who might benefit from additional support services
58. The scale of funding for any Challenge is still being decided; the government wants to be able to offer the best and most appropriate means to stimulate innovations that will help vulnerable consumers.
59. Several respondents emphasised the potential benefits to vulnerable consumers of strengthening the powers of sector regulators to enable them to use consumer data. However, respondents noted that a careful and sensitive approach would be required, and emphasised the need to build trust with consumers, particularly in relation to non-anonymised data. We are considering these proposals in more detail through wider engagement with stakeholders and acknowledge the need for a careful approach.

Links to wider policy

60. As highlighted in responses to the consultation, there is a clear role for government to provide further clarity on the links between Smart Data and wider policy. The earlier section on cross-sector oversight describes how government will seek to work with regulators and departments involved in sector-specific initiatives. More detail on the roles of specific organisations are detailed in the Terms of Reference published alongside this document. Below, we provide more detail on the links to ongoing work on the regulation of digital markets, and the government's National Data Strategy.

²⁵ <https://www.openbankingforgood.co.uk/ob4g-blog/2019/12/19/lets-be-open-about-whats-been-good-in-open-banking-for-good>

Digital markets and the Digital Competition Expert Panel Review

61. The Smart Data Review highlighted the potential benefits of Smart Data in digital markets such as social media, online marketplaces, or app stores.
62. Last year, the Digital Competition Expert Panel (DCEP) published its report on Unlocking Digital Competition (the 'Furman Review')²⁶. Like Smart Data, the DCEP was focused on pro-competitive data proposals to empower consumers and boost competition, with links concerning data portability and interoperability. The Panel proposed a series of measures to support competition in digital markets (specifically digital platform markets), including a new pro-competition regime. This included proposals for a pro-competition regulatory function or a Digital Markets Unit which would pursue data mobility and data access measures in digital markets.
63. The Competition and Markets Authority published the final report of its online platforms and digital advertising market study in July 2020²⁷, and provided further recommendations on how data-related interventions (including data access and interoperability) might be applied to platforms funded by online advertising.
64. At Budget 2020, the government accepted the six strategic recommendations in the DCEP review, and asked the CMA, Ofcom and the ICO to launch a Digital Markets Taskforce to consider how to implement the recommendations from the DCEP and the CMA's market study, including policies around data portability and interoperability. The taskforce and Smart Data working group will cooperate on their respective work, and commit to exploring future links between Smart Data and digital markets.

The Digital Markets Taskforce

The government established the cross-regulator Digital Markets Taskforce, to be housed in the CMA, in March 2020. The Taskforce will build on the DCEP review and the CMA's online platforms market study. The taskforce will focus its expert advice on how to promote competition, and how to address the anti-competitive effects that can arise from the exercise of market power in digital platform markets

The taskforce will publish a final report by the end of the year that will include advice on:

- Remedies related to data access and interoperability
- A methodology to designate 'Strategic Market Status'
- A code of conduct promoting competition, including advice on the code's form, content, processes, and links with wider regulations
- Interaction of a pro-competition regime with existing regulatory regimes and international cooperation

²⁶ <https://www.gov.uk/government/publications/unlocking-digital-competition-report-of-the-digital-competition-expert-panel>

²⁷ <https://www.gov.uk/cma-cases/online-platforms-and-digital-advertising-market-study>

The National Data Strategy

65. There are links between Smart Data and other digital and data-related policy areas.
66. In June 2018, the Secretary of State for DCMS announced the UK government's intention to develop a National Data Strategy that will drive the collective vision needed to support the UK to build a world leading data economy.²⁸ It will help ensure that all citizens and organisations trust the data ecosystem, are sufficiently skilled to operate effectively within it, and can get access to data of sufficient quality when they need it.
67. This provides an opportunity to draw together the many data-related actions and workstreams across government, including Smart Data, and ensure that our wider economy and public services are maximising the potential which can be brought through the effective and appropriate use of data.
68. The UK's National Data Strategy will provide a framework for the action this government will take on data. It is not the final answer, but part of a conversation about the way that we support the use of data in the UK. It lays out the opportunities we want to realise, the pillars that government has identified as core to unlocking the power of data for the UK, and the missions that we must prioritise now. This includes Smart Data as a key initiative for data sharing in the private sector. We will continue working closely with DCMS as the Strategy progresses into implementation.

Invitation for further engagement

69. The working group will work together across sectors and consider in more detail all topics and proposals included in the Smart Data Review. The Terms of Reference has been published alongside this document and details four key areas of focus for the working group:
 - User consent
 - User authentication
 - Accreditation
 - LiabilityVulnerable consumers will be a key area of focus across all topics.
70. In due course, a workplan will be agreed across member organisations which describes the working group's focus in more detail. The working group will be building on and learning from the detailed consultation responses received, however we would welcome further engagement on any of the listed topics to help inform this work.
71. We would also welcome further views on the potential impacts of Smart Data for consumers and businesses. Open Banking has highlighted the potential for Smart Data for businesses, and not just consumers, and we plan to extend these benefits across further sectors. Our initial assessment of impacts is included in the Impact Assessment published alongside this document; however, we would welcome input on any further

²⁸ <https://www.gov.uk/guidance/national-data-strategy>

benefits, costs and risks not considered, or estimates of their scale. Please get in touch via:

Email to: smartdatareview@beis.gov.uk

or

Write to:

Consumer and Competition Policy Directorate
Department for Business, Energy and
Industrial Strategy

1st Floor, 1 Victoria Street

London

SW1H 0ET

Annex 1 – Consultation responses

This annex provides further detail on responses to the consultation. The consultation invited responses on fifteen questions covering three key themes: (i) enabling data-driven innovation in consumer markets, (ii) using data and technology to help vulnerable consumers, and (iii) protecting consumers and their data. This is a summary and does not include detail on all responses to each specific question. Further detail on the questions asked can be found in the Smart Data Review²⁹:

Section 1: Enabling data driven innovation in consumer markets

72. The review invited views on the best approach to expand regulated sector Smart Data initiatives – with a specific focus on an Open Communications initiative. This would require communications providers to share customer and product data to Third Party Providers (TPPs) if requested by the consumer. This would provide more transparency for consumers on available communications deals, particularly on non-price characteristics, and reduce frictions associated with switching. It was proposed that Ofcom, supported by new legislation, should lead the implementation of Open Communications.
73. The review also invited challenge on the proposed roles for a cross-sector Smart Data Function (SDF), which would oversee the delivery of Smart Data initiatives, develop and share expertise and ensure initiatives work in the interest of consumers, especially those in vulnerable circumstances. Further suggestions for any additional roles government should perform were invited.

Consultation questions:

1. Do you agree with the proposed objectives and expected benefits of Open Communications? Are there any other benefits or risks that we should consider?
2. What is the most effective approach to implementation to ensure the success of Open Communications in enabling innovation and delivering the best consumer outcomes?
3. Are there any further actions we should take to enable consumers to benefit from Smart Data in regulated markets?
4. In which other markets, outside of the regulated and digital markets, would there be the greatest benefits from Smart Data initiatives? Please explain your reasoning

Summary of responses

74. Respondents were generally supportive of the Open Communications proposals, and the expected benefits of the scheme, although some felt that there was a need to

²⁹ <https://www.gov.uk/government/consultations/smart-data-putting-consumers-in-control-of-their-data-and-enabling-innovation>

present clearer evidence on the expected benefits from, and consumer demand for, Open Communications products. The exception to this was several of the communications providers, who expressed some concerns.

75. Many responses focused on the specific features of the communications market and its suitability for Smart Data initiatives. Respondents agreed on the importance of non-price characteristics in this sector, for example coverage, speed and customer service, and the importance of providing this data to consumers as part of a Smart Data initiative to enable meaningful comparisons. Those in favour of the Open Communications initiative suggested that navigating this information can confuse consumers about which deal is best for them, and that a Smart Data-led service could ease this assessment, or indeed, conduct switches for them. Those opposed to the initiative described the complexity of providing accurate metrics on service quality for these services to use. This was raised as a particular risk in the context of automatic switching, if difficulties in providing this data accurately means that all factors important to consumers cannot be accounted for.
76. Respondents emphasised the importance of having a strong incentive mechanism for industry to deliver Smart Data initiatives. The proposal to legislate to mandate industry involvement in communications specifically was also broadly supported across respondents, except for some industry representatives.
77. There was support for the regulated sectors proposed for inclusion in Smart Data initiatives, including the energy and pensions sectors, and linking to the existing Midata and the Pensions Dashboards initiatives. It was suggested that the benefits of Smart Data in the financial sector could be better realised when Open Finance and Open Wealth initiatives are implemented and can be linked to Open Banking. In turn, this could have links to other regulated sector initiatives, for example, aligning with the Pensions Dashboards.
78. Beyond the regulated sectors currently in scope, several markets/datasets were suggested as options for future Smart Data initiatives. These included:
 - Education: for example, enabling individuals to view all of their education records in a single location and provide proof of attainment to prospective employers
 - Identification data: for example, Passport Office or DVLA data, to make it easier for individuals to provide proof of identity, age or address
 - Transport: for example, linking trains, airlines, and vehicle data to enable apps that could automatically claim for redress following delays, or enable consumers to track their carbon footprint
 - Retail: data from retailers would overcome a limitation of Open Banking (transaction data cannot be broken down by product) and thus enable improved financial management apps and debt advice tools. It may also enable consumers to find better deals for large items of expenditure (e.g. groceries)
79. Health data was mentioned by multiple respondents but views on whether it should be in scope of Smart Data initiatives were polarised, with some respondents strongly in favour and some strongly against.

Consultation questions:

5. What other roles might industry find it useful for government to perform in addition to it acting as a facilitator for Smart Data?
6. Do you agree that we should establish a cross-sector Smart Data Function with the proposed responsibilities set out above?
7. What would be the best form for the Smart Data Function to take? Should it be, for example, a new body, part of an existing body or some other form?
8. How can we ensure that the costs of Smart Data initiatives are shared fairly between the participating businesses?

Summary of responses

80. Many respondents noted the importance of government setting out a clear strategic vision and desired outcomes, particularly for consumers. The role of educating the public on Smart Data, to improve consumer understanding and develop trust in the initiatives was emphasised. Several respondents flagged the need to clarify roles and responsibilities different government bodies and departments would have in the area of data sharing, to provide clarity on the role of the SDF and to ensure wider consistency, avoiding duplication. This includes joining up the relevant parts of legislation and regulation. The other key suggested roles for government were helping create markets for Smart Data, for example by investing in programmes to develop markets, and relevant international coordination.
81. There was broad support for the proposed objectives and functions of the SDF. Some respondents suggested additional responsibilities including implementation in specific markets, testing use cases, overseeing a 'Trustmark' scheme for TPPs, testing authentication and consent journeys with customers during the implementation process, and monitoring the impact and success of Smart Data initiatives, particularly on vulnerable consumers. It was also suggested that the SDF should lead on providing appropriate functional definitions within the Smart Data space, to ensure regulators and businesses have a common vocabulary to help facilitate initiatives. Several respondents raised the need for an appropriate liability model to handle any data loss or misuse, with a clear dispute resolution mechanism.
82. Proposals for the form the SDF should take were varied, but around a third of respondents suggested that a new body separate from government and the sector regulators would be required. Regardless of the form chosen, many respondents asked us to provide clarity on how the role of the SDF fits alongside other bodies including the sector regulators, the Centre for Data Ethics and Innovation, the Information Commissioner's Office, and the Digital Markets Unit proposed in the Digital Competition Expert Panel Review. It was also suggested that, if it was to coordinate effectively, the SDF would need to be given powers to set consistent standards in each initiative. Objectives and responsibilities should inform the most appropriate funding and staffing model.
83. There were mixed views on how Smart Data initiatives should be funded. Respondents emphasised that it should be appropriate to the initiatives in scope and depends on the value of data shared, the potential use and who the TPPs are. The two approaches that received the most support were:

- The current approach to Open Banking funding, where the incumbents (data providers) fund implementation (of both the SDF and internal implementation costs) and provide access to core APIs without charge. TPPs pay for accreditation, other services (e.g. testing support) and “premium APIs” (any data access beyond the set of mandated data fields)
- As above, but with a mechanism for incumbents (data providers) to charge TPPs for access to all data to enable them to recover either some or all the costs of implementation and provision. In this scenario the price for API access would have to be set by the SDF or regulator. There may need to be exemptions to ensure that smaller TPPs are not required to pay and that incumbents can only charge if the performance of their APIs meets a certain threshold.

Section 2: Using data and technology to help vulnerable consumers

84. The review committed to placing the needs of vulnerable consumers at the centre of future Smart Data initiatives, and, accordingly, at the heart of the SDF. This included committing to launching a Vulnerable Consumer Challenge. The consultation invited views on what else government and regulators can do to improve outcomes for vulnerable consumers, focusing on the role of sector regulators and the SDF.

Consultation questions:

9. What other actions could the government or regulators take to support the use of data and innovative services to improve outcomes for vulnerable consumers?
10. Should we strengthen the powers of sector regulators to enable them to use consumer data to improve their understanding of the challenges faced by vulnerable consumers and to intervene to improve outcomes?
11. How can we ensure that the Smart Data Function improves outcomes for vulnerable consumers? Do we need to consider any further actions?

Summary of responses

85. Many of the suggestion’s respondents made on improving outcomes for vulnerable consumers are applicable to all consumers: understanding consumer needs, instilling trust, and educating consumers on both usage and their rights. In terms of vulnerable consumers specifically, respondents noted that these are particularly important and also potentially more challenging to address; for example, if vulnerable consumers are harder to reach, it may be more difficult to provide appropriate education on Smart Data.
86. Respondents noted the risk of vulnerable consumers being excluded from the benefits of Smart Data. To mitigate this, it was suggested that initiatives should be designed around the principles of inclusivity and accessibility by default. Respondents also suggested that digital solutions could help promote engagement for vulnerable consumers, for example, using biometric authentication rather than passwords could promote inclusivity for those with memory loss or learning difficulties.

87. Several respondents emphasised the potential benefits to vulnerable consumers associated with strengthening the powers of sector regulators to enable them to use consumer data. These included reviewing the impacts of policy and analysing detriment, or modelling the impact of future interventions, enabling a more anticipatory regulatory approach. It was also suggested that anonymised data could be provided to innovators to enable them to design and test their products prior to launch, particularly for services aimed at vulnerable consumers specifically.
88. However, respondents noted that a careful and sensitive approach would be required, and emphasised the need to build trust with consumers, particularly in relation to non-anonymised data.
89. Respondents supported the proposal to place vulnerable consumers at the heart of the SDF. It was suggested that the SDF could oversee a principle of universal design in all Smart Data initiatives, ensuring they are designed for those with the greatest need. Specific actions and responsibilities that were proposed as part of this included monitoring of Management Information (MI) on vulnerable consumers, imposing fines for misconduct or awards to initiatives improving outcomes for vulnerable consumers, and providing guidance or educating firms and regulators on how to communicate with vulnerable consumers in the context of Smart Data to promote inclusivity.

Section 3: Protecting consumers and their data

90. The review emphasised building trustworthiness and greater transparency in data-driven services is essential to adequately protect consumers. It was proposed that the UK's existing data protection regime needs to be taken further to minimise the risks from sharing personal data with TPPs. Proposals included well managed use of secure APIs, consent and verification via a secure authentication process, restrictions to onward sharing and the establishment of a cross-sectoral accreditation system. The review also considered whether the scope of regulation needs to be extended to cover TPPs, with the potential for a cross-sectoral general authorisation regime.

Consultation questions:

12. Do you agree these protections for when TPPs use Smart Data are needed? Are there others we should consider?

13. How should our proposed approach to accreditation operate in practice if it is to effectively ensure that consumers' data are protected and minimise burdens for TPPs?

14. What are the advantages and risks of introducing a cross-sectoral general authorisation regime for TPPs?

15. What other options should we consider to ensure that consumers are protected when using TPPs?

Summary of responses

91. Consumer protection was a key priority across the consultation responses and there was support for the proposed extensions to the existing data protection regime, such as the well managed use of secure APIs, and consent and verification via a secure

authentication process. Although some respondents felt existing protection measures would be sufficient, most showed general agreement for all protections proposed. Some respondents suggesting further protective measures including:

- Ensuring the consumer has greater choice and awareness about how their data is used, for example easy identification of accredited TPPs and their intended use
 - Setting rules for use of data by TPPs and ensuring only the minimum amount of data is shared and with a fixed expiry date
 - Increased security and protection for all data, not just 'high risk' data, for example using 'two-factor' authentication
 - Clarity on liability framework and dispute resolution, with protections and redress arrangements in place
 - Further research, engagement and testing with consumers
92. The need to ensure requirements for accreditation are aligned with existing protections and not too onerous was emphasised to ensure it will not discourage innovation and entry into the market. A tiered approach to accreditation was suggested by numerous respondents, with for example the FCA accreditation level required for financial data as the highest level required.
93. Suggestions were made in relation to how to operationalise the accreditation system. These included drafting rules flexibly to ensure they are applicable to future changes in the market, providing greater clarity on the frequency of accreditation and authorisation, and clarifying how restrictions on data use will be enforced.
94. Most respondents welcomed the proposed rules to restrict onward sharing however many argued for stronger controls or for banning onward sharing entirely. Suggestions for further action ranged from ensuring TPPs are liable for any detriment, to introducing a data dashboard which shows consumers where their data has been shared.
95. There was significant support for a cross-sector general authorisation regime for TPPs and the principles outlined in the Smart Data Review, with many respondents raising equity arguments and the cost and efficiency savings. A mandatory approach was suggested by some respondents. However, some respondents questioned whether the regulation of TPPs should be separate from the regulation of providers, and whether an activity based or modular approach to regulation would be preferable. The need to acknowledge sector differences was highlighted. Respondents raised questions concerning the coordination of enforcement action, for example where a TPP acts across multiple markets.
96. Further issues highlighted which a regulatory regime could look to address included establishing a duty of care for TPPs to protect consumers and regulation of comparison tools.
97. Finally, some respondents highlighted that providers may also need to face new rules regarding data. There could be a need to ensure prospective customers are not discriminated against if the provider learns they may be vulnerable. Respondents also said that providers should be prevented from discriminating against customers who have not shared their data with a Smart Data initiative.

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