

This email contains Ecospend Technologies Limited's response to the call for feedback on The future oversight of the CMA's open banking remedies. Ecospend is a TPP providing PISP and AISP services.

Independent and accountable leadership

A key driver of open banking in the UK is the success of OBIE in providing clear direction for both the banks and TPPs, with the ability to ensure that the implementation adheres where possible to common standards. To date the roll out of Open Banking has been focussed on getting consistency and stability around the common infrastructure and OBIE has been a key contributor in ensuring that success. The future entity must be in a position to drive the next stage in broadening the application of Open Banking into Open Finance and help meet the aims of creating innovation and competition to drive greater accessibility to financial services by the consumer.

Our view is that the Future Entity must be sufficiently independent to be able to both drive the adoption of OB, while at the same time be sufficiently robust to be able to enforce compliance to the spirit of Open Banking under PSD2. We are concerned that the dominance of the Banking Sector through the UK Finance proposal may ultimately undermine the ability to ensure a broader church when it comes to facilitating the access to financial data. A board that is accountable to itself and its members (who the board largely represents) may not afford enough independence to drive mitigation. In the long term, expanding the composition of the board to include more industries and a greater input from other interested bodies such as consumer representatives, does make sense and should be an objective of any new entity. It may, however, be impractical in the immediate term, to expect a wider representation (and the issue of funding, see question below), given the nascent stage of OB and the dominance of the banks at this stage of OB Evolution.

The appointment of an independent Chair helps to address this concern, but ultimately the board and advisory board structure may benefit from a separation between the governance and oversight of the board's objectives, if the board composition is restricted to such a narrow set of constituents as outlined in the proposal. This would allow a period of transition that allows some level of outside scrutiny while still relying on the banks to be the predominant force in the running of the entity until OB is more established as a service.

Adequately resourced to perform the functions required

The proposed funding model does not really address the longer term objective of providing sustainability of an organisation, where the funding is largely focussed on the ASPSPs. It leaves the body at risk from major banks pulling participation and while the TPPs could be asked to contribute, the relatively nascent level of OB means that the contribution, even at large numbers, may well not be adequate to support a greatly expanded function. It is also critical that the funding does not constitute undue influence of one element over.

There is likely a need for a period of transition that requires an interim model in order to better establish longer term membership, and the emergence of a body that is better suited to promoting Open Finance. We believe the remit to provide sustainability to a new organisation can only come from a level of organic growth, rather than leaping to a new body that can efficiently meet the requirements of tomorrow.

In this regard, it may be better to expand the existing remit of OBIE (or a newly named but similarly financed body) to include outlining and setting up the membership and governance objectives of a future organisation; whilst in the short term maintaining its funding around the CM9 and the participation of TPPs in order to finance the short to medium term.

At the same time, a governance framework, to oversee the organisation established (whether this is OBIE or a new organization), should be established and managed by an independent body (such as the CMA). This governance should be there to review the plans, objectives and output of the organisation to ensure that over the next few years the new body identifies, plans and implements a structure to provide a broader membership that can better facilitate and drive great innovation and access to financial services.

Representation of consumers and SMEs

A single representative for consumer segment or similar across SME's seems unlikely to cover all interests, and at the same time will remain under-represented at a board or advisory level. It could be more realistic to ensure that part of the governance process to ensure that the board adequately demonstrates that they are taking into account the interest of consumers and SMEs in their objectives as well as planning for the future in terms of moving towards innovation and access to financial data and services.

Sustainability / adaptability

In our view CMA9 banks should not be able to withdraw for two reasons. First, the threat of withdrawal and the corresponding loss of funding would give them undue influence over decisions taken by the board. Second, even if the only mission of the Future Entity is to maintain the current CMA order, changes to the existing APIs will need to evolve to deal with changing technologies and security issues. As long as the CMA order is in effect, we think the CMA9's have a responsibility to help maintain the existing open banking ecosystem.

The experience that must necessarily be contained in the Future Entity makes it an ideal place to house future open projects. However, at this time it is difficult to see how the governance of the Future Entity could be designed to take account of these new projects. For this reason we again want to emphasize that it may be better to expand the existing remit of OBIE (or a newly named but similarly financed body) to include outlining and setting up the membership and governance objectives of a future organisation.

Payment initiation under PSD2 has much more in common with AIS and other potential open initiatives than it does with BACS or FP. We disagree that the payment initiation standards could be dealt with as a separate payment scheme. Fundamentally, PSD2 is about third party access to banking systems. TPPs do not process payments, they order banks to process payments on behalf of the bank's customers.

Monitoring Arrangements

In our view, if the Future Entity is sufficiently independent, it would be well suited to handle day to day compliance monitoring and some degree of enforcement. In that circumstance, the ultimate power of enforcement would need to rest with the CMA. However, we are not opposed to an independent monitoring firm that relied on the Future Entity's data. We think that the FCA is not well equipped to handle day to day monitoring

Transitional arrangements – design considerations

OBIE has done an exemplary job up to this point which leads us to several conclusions regarding the transition. First, given that there is already a successful organization in place, a way to decrease costs in the transition and increase the chance of success of the Future Entity is to modify OBIE (and potentially rebrand) rather than create the Future Entity from scratch. Second, as there are still

items on OBIE's roadmap, ideally no transition should take place until the roadmap is complete. Finally, whatever form the Future Entity takes, we think the Trustee's existing monitoring function should be maintained until the transition is complete.