Consultation: the future oversight of the CMA's open banking remedies

Equifax response

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About Equifax

Equifax is a global data, analytics, and technology company. Headquartered in Atlanta, Equifax operates or has investments in 24 countries in North America, Central and South America, Europe and the Asia Pacific region. It is a member of Standard & Poor's 500 Index and employs approximately 11,000 people worldwide. Equifax Ltd is one of the Equifax group companies based in the UK. Equifax Ltd is authorised and regulated by the Financial Conduct Authority.

In February 2021, Equifax acquired AccountScore after working together for over two years. AccountScore is a global data and analytics business that provides actionable insights and analytics on bank transaction data for clients. AccountScore's subsidiary Consents Online Limited (consents.online) is a registered Account Information Service Provider, regulated by the FCA, which provides branded Open Banking as a Service.

Together, Equifax and consents.online have brought a number of innovative open banking solutions to the market that improve borrowers' experience of applying for credit, promote responsible lending and improve access to competitive, affordable finance. These include:

- The first live use case of open banking for credit applications, giving consumers applying for credit the option of quicker, more accurate affordability assessments.
- The first real time, open banking identity verification solution. Identity information such as the consumer's name, address and date of birth, is matched with information on the current account provided through open banking and then compared and validated against Equifax's credit information on the account holder.
- One of the first open banking assisted mortgages. Most customers no longer need to source and supply copies of bank statements to support their mortgage application. The open banking assisted journey is simpler, faster and more secure.
- The Financial Health Index. This credit risk tool uses transaction data so lenders can responsibly lend to more consumers with thin credit files.

Consultation response

Independent and accountable leadership

We share the concerns that there is a risk that the governance framework proposed by UK Finance could give the largest banks too much influence on the appointment of the Chair and, in turn, on the appointment of the CEO and the operation of the Entity as a whole. Even if those risks did not materialise in practice, any process to appoint the Chair that could be perceived as giving rise to those risks could hobble the Future Entity from the off.

To mitigate those risks, we support the CMA appointing the Chair and the CEO on the recommendation of an independent interview panel. We also recommend that:

- **The Chair and Board should have clear overarching duties always to act in the best interests of consumers/SMEs by promoting competition and innovation.** This would build on the 2017 CMA Order that stated that a function of the Trustee was to "take decisions in the interest of customers and the promotion of competition". It should be an essential requirement in the role of the Chair therefore that they can be seen as a credible, independent champion of end users and innovation across the whole ecosystem of open banking, open finance and, in turn, Smart Data.
- **Consumers/SMEs should be represented on the transition group and interview panel that will recommend the Chair and CEO appointments to the CMA.** The UK Finance proposals state

the transition group should be representative of the market yet only seem to propose representation from banks and TPPs.

- **If the CMA does not appoint the Chair and instead they are appointed using the process UK Finance suggests (members voting in weighted blocks), then the CMA should ensure that this system does not allow a small number of organised and highly motivated members to pick or block appointees.** For example, it will be easier for the CMA9 to coordinate their votes for or against a single candidate. It is also not clear how consumers and SMEs would be represented in weighted votes of members if the membership is only made up of TPPs and banks.
- **That more time be taken to get the governance, funding and role of the Future Entity right so that open banking and open finance deliver on their potential to improve consumer, SME and market outcomes.** While we welcome and recognise the impressive work undertaken by UK Finance so far, the consultation period does seem unnecessarily hasty. At such a critical time for the success of open banking, and a turning point towards open finance and Smart Data, we would rather the OBIE continue to operate until there is sufficient assurance and buy in from all parties that the Future Entity design and plans are appropriate.

On accountability, the Future Entity and Chair should ultimately be accountable to consumers/end users by acting in their interest to promote competition and innovation. As set out above, this could be done partly by enshrining this duty in the responsibilities of the Entity and Chair, and by giving the CMA the responsibility to appoint the Chair and CEO. In addition, there could be accountability through transparency and reporting to a relevant Secretary of State and Select Committee. The CMA should also consider whether the Chair, the CEO and the executive roles in the Entity should be within the scope of the FCA SMCR regime to ensure accountability.

We agree there is a risk that the Entity and Chair’s abilities to act independently and in the consumer interest could be constrained, or be perceived as constrained, by the fact that the CMA9 will be providing the funding. The success of the OBIE demonstrates that this risk can be partly mitigated by ensuring the Entity and its leadership are independent, have a duty to promote the consumer interest through competition and are appointed by the CMA.

Adequately resourced to perform the functions required

We agree that the CMA9 should continue to fund the Entity in the short term and we are sympathetic to the case for sharing the Service Fee costs with other ASPSPs and then exploring alternative income sources over time. However, since the potential value of alternative sources of income are unknown and uncertain, the CMA should secure a commitment from the banks to continue funding the entity as long as required.

On a related note, there is a risk though that Entity could come under pressure to prioritise work that reduces its reliance on funding from the banks (e.g. one potential income stream proposed by UK Finance is “commercialising the UK Open Banking experience abroad through a Future Entity Advisory service”). The Entity must be able to resist that pressure if it would come at the expense of work that would have a more positive impact on UK consumer outcomes. This is another reason for ensuring the duties and independence of the Entity and its leadership are clear, with a strong focus on improving competition and innovation in the consumer interest.

On whether funding should be sought from TPPs, we recognise the case for fees where this will increase the pace of innovation and improve market outcomes. To achieve those goals however, careful consultation and consideration will be required so that innovation is not stifled unintentionally. TPPs fees should not become a barrier to entry or expansion for small businesses. For more established businesses, while the CMA is right that some TPPs are large, that does not mean they are using open banking at scale or generating profits from their open banking innovations. High TPPs fees would reduce investment in open banking by those big businesses that have a high potential to scale up successful innovations. A smarter fee structure would be needed; for example, charging TPPs based on usage rather than a crude measure of firm size.

We are also concerned by the proposal in the UK Finance paper that the Entity could explore as a source of revenue, "Enhancing the membership proposition by creating a "Pay to Play" model for member ASPSPs and TPPs to influence the evolution of standards". If that is a suggestion that firms would buy influence over the content of standards, it is hard to see how that would promote innovation and the consumer interest.

Other issues

We agree that the potential for a CMA9 member to withdraw from the Entity is a risk, not just to the Entity's sustainability but also to the continuity and development of open banking and open finance in the UK. Given how concentrated the payment account market is, if just one of the big banks left then millions of consumers could lose access to the ongoing innovation being carried out and all consumers would be at risk from a reduction in competition. Setting the CMA9's membership commitment at five years would be better than three but it will only delay any problems. Given how hard it has been to predict the pace of progress in open banking so far, we would recommend imposing a longer membership commitment with the ability for it to be extended if required.

We are supportive of the proposals for open finance and Smart Data. In our consultation responses on both topics, Equifax has recommended that regulators replicate as far as possible the OBIE model of standards, incentives and obligations to ensure incumbent firms deliver agreed outputs on time and to get standards and delivery right for end users. Timely delivery, a high quality user experience and a trusted oversight body acting in the consumer interest to promote competition will be key to ensuring open finance and Smart Data deliver their potential and hit milestones on time.