

The Information Commissioner's response to the CMA's consultation on the future oversight of the CMA's open banking remedies

The Information Commissioner's Office (ICO) has responsibility for promoting and enforcing the General Data Protection Regulation (GDPR), the Data Protection Act 2018 (DPA18), the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the Privacy and Electronic Communications Regulations 2003 (PECR), amongst others. We are independent from government and uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. We do this by providing guidance to individuals and organisations, and taking appropriate action where the law is broken.

We welcome the opportunity to respond to this consultation. We have had ongoing, mutually-beneficial engagement with the Open Banking Implementation Entity (OBIE) since its inception, providing advice on the interactions between the GDPR and the Second Payment Services Directive and wider data protection matters. We also collaborate on the content of customer journey guidance for third-party providers, and give input on end-user risk considerations where they fall within our regulatory remit.

We want to make it easier for people to exercise autonomy over the personal data that businesses hold about them in a way that is UK GDPR-compliant, supports information rights, enables consumer switching and promotes growth and innovation. As a result of our work with Open Banking we have supported Ofcom with its initial proposal for open communications, and the FCA on its call for input on Open Finance. Similar projects are now planned through the BEIS Smart Data programme.

With this in mind, we are keen to see any future iteration of the Open Banking programme be co-ordinated with the wider implementation of Smart Data initiatives. We want to unlock the full potential of data portability within and across sectors and enable consumers to find the right propositions for them. Given the similarities in the data protection considerations and challenges across Smart Data initiatives it would be beneficial for us to engage primarily via an overarching programme structure rather than through individual initiatives.

The Open Banking Implementation Entity has blazed a trail in the UK identifying the data protection challenges inherent in Smart Data initiatives and proactively engaged with the ICO on how to best address them. We are keen to see Open Banking continue to build on the solid foundations it has already created while sharing its hugely valuable knowledge and experience.