

CMA Open Consultation
The future oversight of the CMA's open banking Remedies
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Section	Answer
Independent and accountable leadership	
a) It is envisaged by UK Finance that the Members of the Future Entity would appoint the Chair with “votes weighted by participant type.” This process is not explained in detail and we will seek further clarity from UK Finance. However, it may give rise to a risk that a particular stakeholder group (eg the largest banks) would have an inappropriate degree of influence over the appointment.	N/A
What process and criteria should be used to identify suitable candidates for the Chair?	N/A
Who would be responsible for doing this, who should be kept informed and whose approval should be sought for decisions at this stage?	N/A
Should the Members alone approve and appoint the Chair or should the CMA's approval be required, as was the case in the appointment of the Trustee?	Believe that the appointment of the Chair should be independent of the CMA and align to new company articles with full market transparency. Once CMA Order has been fully served there should be no CMA involvement in the new Future entity. Please see comments in c) below.

<p>b) Does the proposed composition of the Future Entity Board constitute independent leadership?</p>	<p>N/A</p>
<p>On its face, the composition of the board would suggest a balance of perspectives will be represented. However, should the CMA seek further information or assurances before concluding that the proposals will result in an independently led organisation?</p>	<p>N/A</p>
<p>c) To whom should the board be accountable. Should their accountability extend beyond the membership of the Future Entity?</p> <p>Are there transparency or reporting requirements that it would be appropriate to impose on the Entity's Board similar to those imposed on the OBIE?</p>	<p>What is the purpose of the Future Entity? It is an organisation created under a CMA Order to manage the regulatory compliance of the CMA9 banks to meet the obligations of The Retail Banking Market Investigation Order 2017 to drive greater competition in the UK Personal Current Account (PCA) and Business Current Account (BCA) markets. The scope of the current entity (OBIE) was extended to ensure CMA9 compliance with the requirements set out in the EU Payment Services Directive 2 (PSD2) pertaining to access-to-accounts. This was all financed directly by the CMA9 as laid out in the CMA Order.</p> <p>We now have an organisation whose development was funded by the CMA9, of which a number of the banks are quasi-state owned, to one becoming a market dominant entity that actively does not promote competition.</p> <p>It is doubtful that the CMA ever intended to create an entity that has evolved into a market dominant organisation that stifles competition, uses unfair pricing tactics and adversely exerts its influence over non CMA9 banks, to the detriment of the market. No doubt also, the CMA's intention was not to create an organisation that now has aspirations to extend its services into other vertical market segments in the UK market, again stifling and precluding fair market competition.</p> <p>It also has to be questioned as to the fairness and legality of a company created by legal remedy being able to take the assets and intellectual property (IP) of the organisation, paid for by the CMA9, and pass these to the new</p>

organisation which on Day 1 transition becomes a not for profit organisation, however, from Day 2 Evolution can create a wholly-owned commercial subsidiary (for profit) that sits under the Future Entity, whereby the commercial subsidiary would house the commercialised services e.g. Directory, DMS and Service Helpdesk.

The UK Finance report states “that this provides clear division between the services on offer that will likely compete with other Open Banking service providers and services centralised across the industry”. However, it does not recognise the fact that this has been a quasi-state funded commercial subsidiary of a “not for profit organisation” that significantly and unfairly benefits from regulated funding and free ownership/title of assets and IP, not available to any normal commercial organisation. It has had no cost of funding i.e. shareholders, loans or others to develop this IP and has no requirement to repay the investors i.e. the CMA9 for the funds involved in the creation of the IP. Furthermore, the commercial subsidiary will have the remit to extend its operations outside the United Kingdom creating a state funded (some of the CMA9 are still majority UK government owned and forced to use services from the new body with no choice) anti-competitive body competing in Europe.

OBIE has been cross subsidizing the PSD2 community due to the guaranteed fees it collects from the CMA9, and therefore it has not based its service costs on commercial pricing. Furthermore, if as the UK Finance report recommends, income from the CMA9 is going to be guaranteed for at least the next 3 years, it allows for forecasting and business modelling that has an unfair competitive advantage. This is clearly demonstrated by the fact that OBIE has a 90%+ share of the UK market. The CMA in the recent objection to the Seedrs and Crowd Cube merger has demonstrated clearly that they do not wish to see single entities dominate a sector of the UK market, yet seem perfectly happy for OBIE and the Future Entity to dominate with an on-going market advantage the directory and other services.

This will continue to stifle competition, harm investor confidence and create even further unfair bias in the market. OBIE and the Future Entity has, and will

	<p>continue to have, unfair regulatory dominance in the market stifling UK fintech and regtech investment and innovation, not just for open banking but open everything. UK PLC has led the way in Open Banking but faces a very real risk of stifling innovation it has sort too encourage.</p> <p>It is vitally important that the Future Entity is accountable to an organisation that has the scope and legal powers of enforcement to ensure that the company operates within its mandate and company articles only and does not attempt to move into other market segments and continue to distort competition or even look to increase that distortion even further.</p>
<p>d) Does the initial funding model envisaged risk undermining the Future Entity’s ability to act independently because of the potential tension between the interests of the CMA9 (who will be providing all of the funding initially) and the objectives of the independent Chair?</p> <p>Can the CMA be confident that the Future Entity governance structure (including an independent Chair, NEDs and the Advisory Committee) will be sufficient to resist pressures that may arise as a consequence?</p> <p>And if we cannot be confident what steps should be taken to mitigate this risk?</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
<p>e) Do UK Finance’s proposals for the Future Entity raise any other concerns regarding its leadership and governance model?</p> <p>Are there any other alternative approaches which would be more suitable to address these types of issues?</p>	<p>We have significant concerns regarding the proposed Future Entity governance model.</p> <p>The UK Finance report states in section 5. Vision and mission that the Future Entity shall “be an advocate for Open Data and Payments propositions in the UK and internationally - Being an advocate involves being the visible leader on behalf of the industry, driving the adoption of Open Banking and other Open Data and Payments propositions in the market, and supporting strategic</p>

	<p>discussions at the international level and advocating the use of UK infrastructure to support international use”.</p> <p>Additionally, in section 10.1 Commercial subsidiary the report states “a potential evolution from Day 1 is to create a wholly-owned commercial subsidiary that sits under the Future Entity. The Parent Entity would hold the API standards and be responsible for co-ordinating and engaging the ecosystem. The commercial subsidiary would house the commercialised services e.g. Directory, DMS and Service Helpdesk. The Parent Entity would remain not- for-profit and, while the commercial subsidiary could make profit, this would be paid as a dividend through to the Parent Entity. This provides clear division between the services on offer that will likely compete with other Open Banking service providers and services centralised across the industry.</p> <p>The ability of the Future Entity to create a commercial subsidiary to sell services, based on intellectual property, assets and know-how, freely acquired for the OBIE is anti-competitive and creates unfair competition for commercial organisations. Further as the assets were acquired through funding from state owned bodies (i.e. RBS and LBG) it could be considered direct state intervention in the creation of anti-competitive body.</p>
Adequately resourced to perform the functions required	
<p>a) In overall terms, is the framework proposed by UK Finance capable of performing the functions necessary to ensure the effectiveness of the CMA’s open banking remedies going forward? Are there alternative approaches that the CMA should consider?</p>	<p>N/A</p>

b) Does the proposed funding model give enough confidence about the resourcing of the Future Entity? In particular:

- What evidence is there that external revenue is now, or will become, available to the Entity through the tendering of relevant projects?
- Given that the anticipated external revenues may or not materialise in 2022 or be maintained after that date, how can the CMA and other stakeholders be confident that the budget of the Future Entity will be adequate to deliver the residual requirements of the Order?

- How should the Future Entity set priorities in the face of a potentially reducing budget and competing requests for investment in future developments, including from the Participant Groups? [footnote 18]

The proposed funding would appear adequate if the CMA9 banks were to continue to participate in the funding of the Future Entity.

However, if one or more of the CMA9 were to withdraw funding (i.e. decided to / hand the ability to move to another service provider), then this potentially would significantly impact the charges and costs to the remaining participants.

Charges to run and maintain the Future Entity could prove to become burdensome and prohibitive, if any, or all of the CMA9 decided not to participate at a future time with the weight of funding falling on the smaller market participants. The anti-competitive nature of the new body is demonstrated by the fact that it is not considered in the model that any of the CMA9 would move their decision for the provision of services to a new independent supplier. This clearly demonstrates the anti-competitive nature of the proposed existing structure. This is further supported by the fact that the existing CMA Order clear states under section 10.2:

“The Read-only Data Standard and Read/Write Data standard shall include provisions relation to:

Section 10.2.3 c then states:

Whitelisting as a system for approving third party providers fairly and quickly unless there is sufficient existing regulatory oversight.”

Currently no standards have been published for a whitelisting service, only a service, thus the ability of a CMA9 bank to move to a new provider has not been created.

Carry out a market RFP to outsource service provision to professional commercial organisations who can capitalise on economies of scale and deliver services at commercially competitive rates. This could even be benchmarked against the costs of currently providing it internally. However, in order to run an RFP, section 10.2 of the CMA order would need to have been fulfilled and data standards for a whitelisting service published.

<p>c) The proposed funding model does not anticipate significant funding from the TPP community in the short term. Is this reasonable?</p> <p>Should more financial support be sought from firms acting as TPPs, some of which are quite large businesses and others, for example retailers, who are likely to benefit from the adoption of existing (rather than yet to be developed) open banking payment services in particular?</p>	<p>Why is the UK deviating from the original scope of PSD2? Why impose charges on TPPs who have a legal right to access data and transact PIS transactions.</p>
<p>d) The OBIE has performed functions and supplied services which while not stipulated in the Order have, in the opinion of many parties, proved fundamental to maintaining a well-functioning ecosystem. These include, for example, the onboarding services that OBIE provides to help TPPs interface with ASPSPs. Can the CMA and other stakeholders be confident that these will be maintained?</p>	<p>Why should the Future Entity solely provide these services? This again demonstrates the anti-competitive nature and presumptive nature of the proposed solution. There are many existing organisations fully capable of providing the range of services at competitive market rates. Why should/would the Future Entity carry the burden of cost for providing these services. The Future Entity could endorse service providers who have demonstrated their capability to provide approved services, that meet the standards required driving competitive market pricing and choice of supplier. Furthermore, as the UK is only a relatively small market within the whole of Europe (i.e. there are some 6,000 ASPSPs in EEA), it would be reasonably expected that commercial organisations that can attain economies of scale by providing services to both the UK market and broader European Market, and possibly even global market, would offer substantial cost reductions to the CMA9 in the provision of the required services.</p> <p>Why does the view persist that OBIE / Future Entity should do everything? The UK market is without argument 18-24 months in advance of the EU in terms of open banking adoption. However, this difference is mainly driven by the fact that the UK CMA Order was imposed before the European PSD2 Access-to-Accounts regulatory deadlines (18 months).</p>

	<p>However, we are now seeing significant open banking traffic materialise across Europe with banks processing multi millions of transactions per month, and like the UK these figures continue to rise. This growth has not required a central service entity to direct and dictate but has allowed the market to develop to meet regulatory requirements and given banks choice in service providers for all aspects of open banking.</p>
<p>e) Do UK Finance's proposals for the Future Entity raise any other concerns regarding its proposed resourcing?</p>	N/A
<p>Are there any other alternative approaches which would be more suitable to address these types of issues?</p>	<p>Many of the services offered by OBIE can be provided by commercial organisations at a significantly lower cost. Commercial organisations have economies of scale and can provide either consummate or higher service levels at a commercial competitive rate. Open Banking is becoming a truly global offering, companies offering Pan European, and possibly globally, will be able to bring both innovation and cost reductions to the UK market if a set of standards are published for all elements, rather than the Future Entity looking to deliver them in a monopolistic manner with guaranteed income for three years.</p>
Representation of consumers and SMEs	
<p>a) Will the proposed arrangements ensure effective representation of consumer and SME interests? Would any alternative arrangements be more suitable?</p>	N/A
<p>b) Can the interests of consumer and SMEs be adequately represented by the same board</p>	N/A

<p>member, say with support from the advisory committee?</p>	
<p>c) What process and criteria should be used to select the consumer representatives on the Board and Advisory Committee?</p>	<p>N/A</p>
<p>Should there, for example, be a specific reference to the needs of vulnerable or less well-off consumers?</p>	<p>N/A</p>
<p>Sustainability / adaptability</p>	
<p>a) Is the assumed ability of one or more of the CMA9 to withdraw from the Future Entity a cause for concern in terms of the sustainability of these arrangements?</p>	<p>Withdrawal of one or more of the CMA9 by definition would cause significant financial impact on the Future Entity as currently the majority of open banking traffic is handled and managed by these organisations. However, why should the CMA9 be bound to continue to fund the Future Entity?</p> <p>The CMA Order specifies in section 10.2 that OBIE provide and publish standards for, amongst other things, the whitelisting directory, which has not happened. OBIE took the decision to build the directory service without investigating alternative options and solutions available in the market. This has resulted in the OBIE taking a dominant market position in the UK, precluding commercial organisations from providing commercially available directory solutions to the CMA9 banks.</p> <p>The CMA9 today are restricted from moving from OBIE or the Future Entity as the CMA order section 10.2 has not been met and standards published. There are thus no standards the CMA9 can use to assess alternative suppliers against.</p>

<p>Would the CMA9 not have to retain membership in order to comply with certain requirements of the Order, for example to maintain the network that supports the directory requirement in the Order?</p> <p>Would, in any case, the benefits of membership to CMA9 members be expected to outweigh the (minimal) cost savings from withdrawing (which we would expect to be limited)?</p> <p>Would, nonetheless, a longer membership commitment from the CMA9 (for example, 5 years) provide greater security for the Future Entity?</p>	<p>CMA9 retained membership would only be required in circumstances where the CMA9 banks were paying the majority of the annual charges to run the not-for-profit Future Entity. Obviously if the same funding share requirements are used for the Future Entity as calculated today for funding the OBIE, then withdrawal of one or multiple CMA9 banks would leave a significant funding gap for the Future Entity, with the shortfall being funded by the remaining participants.</p> <p>The only requirement “to maintain the network that supports the directory requirement” is funding. The CMA directory service is not unique and there is alternative market developed offerings that can provide better services at more competitive rates than those provided today.</p> <p>Why would cost savings be limited? There is no evidence to support this claim. It can be argued that the OBIE charges far outweigh the service charges offered from commercially competitive services. Indeed, if the CMA9 member has overseas operations then there is a significant cost argument that using one directory service for all territories will provide significant cost savings to using multiple directory services with differing service levels, functionality, support etc.</p> <p>Why should the future entity be financially protected? Why should it be allowed to continue to have market dominance? Why should not all CMA9 members be allowed to source commercially available services at competitive rates to meet their compliance obligations and requirements? Why is the Future Entity potentially being given a special protected status? Is it not the responsibility of the Competition and Markets Authority to ensure that consumers get a good deal when buying goods and services, and businesses operate within the law by, amongst other means, taking action against businesses and individuals that take part in cartels or anti-competitive behaviour? Would not, does not,</p>
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	<p>the OBIE and Future Entity constitute an anti-competitive behaviour by its very nature of market dominance driven by the CMA Order?</p>
<p>b) Would the membership / proposed funding model allow non-CMA9 account providers who had adopted the open banking standards, to “free ride”: enjoy the benefits generated by the entity without making an appropriate contribution ? If so, and were it deemed necessary, how could this be avoided?</p>	<p>This consultation question confuses the adoption of market standards versus service provision to industry.</p> <p>The use and adoption of the UK Open Banking Standard was always envisaged as being free, and indeed industry was encouraged to adopt it. Indeed, the Finance UK Consultation document refers to promoting the UK Open Banking Standard to other countries and regions.</p> <p>The provision of services to industry is a completely different topic and issue. Organisations can, and have, adopted the UK Open Banking Standard but do not necessarily utilise OBIE services. There is no legal or operational requirement to do so.</p> <p>If industry wants to use the Future Entity services then they should be charged a fair, commercial and equitable rate(s). This should not be subsidized by the CMA9 banks, and even if not directly ‘subsidized’ then income should not be guaranteed either, as this guarantee of revenue allows a planning and cost structuring not open to competitive market entities.</p>
<p>c) Could or should the Future Entity, as UK Finance has suggested, be a suitable vehicle for the implementation of other “open” projects such as the FCA’s Open Finance initiative and the BEIS Smart Data project?</p> <p>The Open Finance and Smart Data initiatives are not, as yet fully defined. How, therefore might the Future Entity be designed so as to accommodate their requirements?</p>	<p>The Future Entity’s existence is predicated off the back of the CMA Order. This Order was specifically for the CMA9 banks. However, the current OBIE entity has become a market dominant force (95%+ provision of some services to UK ASPSPs) funded by the CMA9, which it will continue to be for the foreseeable future.</p> <p>This market dominant position has precluded commercial organisations from operating and competing in the UK market, and the UK entities benefiting from innovative and better solutions being developed for the broader EEA markets, along with economies of scale the broader EU and Global Open Banking market delivers. Based on the fees receive today from the CMA9, OBIE has</p>

	<p>not been transparent in either its pricing or cross subsidization and has used “under hand market influence” to ensure that competition is actively kept out.</p> <p>OBIE or the Future Entity with guaranteed income from the CMA9 has the ability to undercut any market competitor as it has no cost of platform provision or market risk cost. Indeed, it has no need to recover sunk costs or repay investors.</p> <p>Why should the Future Entity, which will have been gifted free intellectual property, assets, customers and a guaranteed income, be given the right to increase its market dominance at the expense of commercial organisations?</p> <p>Why should the Future Entity then have the capability to commercialise these offerings outside the United Kingdom?</p> <p>It is hard to understand and fathom why the Competition and Markets Authority would countenance such a proposition. The UK Government is actively promoting fintech, indeed the Kalifa Review of UK Fintech published 26th February 2021, sets out a strategy to put the UK at the top of the global fintech league table. However, this whole consultation process is working to instigate a Future Entity that stifles and smothers competition, innovation and investment.</p> <p>Support for new initiatives will have to be funded. This can only be achieved through either generating profit from existing services or increasing the annual contribution of participating organisations. Why would organisations that have no interest in certain initiatives be willing to fund Future Entity aspirations?</p>
<p>d) It could be argued that the maintenance and development of payment initiation standards should be dealt with separately from account information and as a scheme. What should be the relationship between the new arrangements and the oversight of payment systems more generally?</p>	<p>Fundamentally disagree with the premise to the question posed. PSD2 and the subsequent transposition into UK law (The Payment Services Regulation 2017) are not aiming to implement schemes. Creating a scheme requires a body to manage rules and processes, funding and staff. It also will create additional obligations, over and above the legal requirements, that participants will be required to abide by in order to deliver payment initiation services.</p>

	<p>Creating a scheme would by its very definition limit payment initiation services within the UK market and would stifle creativity and investment.</p> <p>As stated in the UK Finance report “OPEN BANKING FUTURES: BLUEPRINT AND TRANSITION PLAN, March 2021”, Open Banking Payments are sometimes described as a “scheme” and it is important to clarify that this is not (and will not be) the case, since Open Banking Payments use FPS rails to transfer value. Creating a scheme requires significant legal, capital and operational requirements, and there is no indication of a desire for the Future Entity to explore this direction in the future.</p> <p>Creation, maintenance and management of standards for account information and payment initiation standards should be collectively dealt with.</p>
<p>e) Do UK Finance’s proposals for the Future Entity raise any other concerns regarding the sustainability of the proposed approach?</p>	<p>Where does one draw the line as to the scope of the Future Entity’s activities?</p> <p>The UK Finance report “OPEN BANKING FUTURES: BLUEPRINT AND TRANSITION PLAN, March 2021” describes a “Day 2 evolutions to the model” comprising the Future Entity – ServCo and a Commercial Subsidiary whereby “this model would also enable the parent and subsidiary model to be built on further should there be other Open Data propositions that the Future Entity incorporated.</p> <p>This consultation even asks, “could or should the Future Entity, as UK Finance has suggested, be a suitable vehicle for the implementation of other “open” projects such as the FCA’s Open Finance initiative and the BEIS Smart Data project?”</p> <p>The Future Entity’s endeavours must be confined to the activities of open banking. Otherwise, there will be an organisation initially funded by the CMA9, having free ownership of intellectual property, assets, customers and guaranteed income, potentially moving into other vertical “open” markets with a significant unfair competitive advantage.</p>

<p>Are there any other alternative approaches which would be more suitable to address these types of issues?</p>	<p>Allow the market to be open for fair competition based on price, performance and services.</p>
<p>Questions for consultation</p>	
<p>Views are invited on any aspect of monitoring but in particular:</p>	
<p>1. Our working assumption is that it would not be appropriate for an industry-led body – such as the Future Entity - to have responsibility for compliance monitoring of the conduct of some of its members. However, we envisage that whatever entity does undertake compliance monitoring will rely in part at least on data provided by the successor body to OBIE which it may also use for its own purposes. Is this reasonable? Could, with appropriate governance, the proposed Future Entity be given the responsibility for monitoring the compliance of the CMA9 with the Order?</p>	<p>Do not believe that the Future Entity should be given responsibility for future monitoring of the CMA9 and their compliance with the CMA Order. If this were to remain so, there will be a continued argument for the CMA9 to fund the majority of the Future Entity. This in turn would continue the OBIE/Future Entity market dominant position and remove the opportunity for commercial organisations to offer competitive services to the CMA9 banks.</p> <p>Compliance monitoring of the CMA9 and operations service delivery of the Future Entity are two different and distinct activities.</p> <p>It is reasonable to anticipate that the entity responsible for compliance monitoring relies in part on data provided by OBIE or its successor (i.e. Future Entity).</p>
<p>2. We have identified ecosystem monitoring as an important function that may, for example, indicate the need for product or other developments. Would this role fit best with the entity charged with compliance monitoring or conversely,</p>	<p>This should be wholly dependent on whether the requirements are regulatory, or market driven.</p> <p>Regulatory driven requirements will be enacted into law and it will the requirement of the relevant regulator (i.e. UK FCA, PSR etc.) to ensure compliance by all regulated entities.</p>

<p>would this role fit better with the successor body to OBIE?</p>	<p>Market driven requirements for product or other developments should be governed by the Future Entity's Board. However, these market driven requirements must focus on the development and publication of relevant standards only, such that commercial organisations can develop innovative product and service offerings. These developments, unless pertaining to Future Entity existing infrastructure enhancements only, must be open and freely available to drive market competition and better outcomes for service users.</p>
<p>3. The CMA commonly appoints an independent professional services firm as a Monitoring Trustee to monitor compliance with remedies imposed after Market Investigations or Merger Inquiries. Would this be appropriate in this instance and if so, which types of firms or other bodies could be considered? Would it be practicable to find a firm that was not conflicted?</p>	<p>Yes, and it should be wholly independent of the Future Entity. Not sure as to why it would be difficult to find a firm that was not conflicted?</p>
<p>4. ASPSPs may challenge suggestions that they are non-compliant and, currently, the Trustee's monitoring function makes an initial assessment which may be subsequently passed to the CMA. Should the new monitoring entity perform this initial screening, or should this reside with the CMA's enforcement function? We envisage the former but invite views, including to the contrary.</p>	<p>N/A</p>

<p>5. Is it necessary to continue monitoring activities at all since the FCA is already responsible for ensuring compliance with the (similar) requirements of the PSR including by the CMA9? To what extent would the FCA's current monitoring activities be an effective substitute for the activities of the Trustee's monitoring function?</p>	<p>We believe that monitoring for regulatory compliance should reside with the FCA, to the extent that it is the FCA's responsibility to provide regulatory oversight of all UK regulated entities.</p> <p>However, from a market development perspective the requirement for OBIE to publish open banking Key Performance Indicators (KPIs) on a monthly basis has proven invaluable to demonstrate market growth in the UK, albeit for the CMA9 only. This type of market monitoring and reporting is not a function of the FCA and therefore should reside with the Trustee's monitoring function.</p>
<p>6. Are there any other issues regarding monitoring and compliance which the CMA should be aware of?</p>	<p>N/A</p>
<p>Transitional arrangements – design considerations</p>	
<ul style="list-style-type: none"> • What measures should the CMA adopt to mitigate the risk that the OBIE's ongoing services will be interrupted or disrupted during a transition process? 	<p>N/A</p>
<ul style="list-style-type: none"> • How should the ecosystem's performance be monitored during a transition process? Should, for example the Trustee's current monitoring function be maintained during a transition process and if so where would it be appropriate to site it? 	<p>N/A</p>
<ul style="list-style-type: none"> • Who should be held accountable for managing the transition process and what 	<p>N/A</p>

<p>incentives should be put in place to reinforce their obligations to ensure continuity?</p>	
<ul style="list-style-type: none"> • What steps should the CMA take to mitigate the risk that any remaining deliverables from the Roadmap are left incomplete? For example, should the CMA refuse to permit the commencement of the transition process before all of the elements of the implementation are in place? If not, what assurances should it seek and what safeguards would need to be put in place to eliminate the risk that the final elements of implementation would be unreasonably delayed or left uncompleted? 	<p>The OBIE has not fulfilled all CMA Order obligations. The Retail Banking Market Investigation Order 2017, PART 2 Open API standards and data sharing states:</p> <p>10.2.3 security standards (including those to be adopted by third party providers) including as a minimum for confidential data as set out in Article 14:</p> <ul style="list-style-type: none"> (a) authorisation and authentication standards; (b) standardised permission frameworks; and (c) whitelisting as a system for approving third party providers fairly and quickly unless there is sufficient existing regulatory oversight; <p>Whereas Article 10.2.3 (a) and (b) have been met, clearly 10.2.3 (c) has not as the Read-only Data Standard and Read/Write Data Standard does not include provisions relating to (c) above as directed in the Order. Instead OBIE decided to develop, build and maintain the directory and preclude the opportunity for other market participants.</p> <p>Why should the Future Entity be allowed to retain market dominance and unfair competition for the provision of directory services?</p> <p>As a minimum OBIE should be directed to develop, publish and maintain relevant standards to meet the requirements of Article 10.2.3 (c) above prior to transitioning to the Future Entity. This would allow then the CMA9 to move to other services that meet the standards.</p>
<ul style="list-style-type: none"> • Once the final remit of any new organisation to succeed the OBIE is agreed, for example its ability to undertake development work that is currently beyond 	<p>Where does one draw the line as to the scope of the Future Entity’s activities?</p> <p>The UK Finance report “OPEN BANKING FUTURES: BLUEPRINT AND TRANSITION PLAN, March 2021” describes a “Day 2 evolutions to the model” comprising the Future Entity – ServCo and a Commercial Subsidiary whereby</p>

<p>its scope, would it be desirable to reflect this during the transition period?</p>	<p>“this model would also enable the parent and subsidiary model to be built on further should there be other Open Data propositions that the Future Entity incorporated.</p> <p>This consultation even asks, “could or should the Future Entity, as UK Finance has suggested, be a suitable vehicle for the implementation of other “open” projects such as the FCA’s Open Finance initiative and the BEIS Smart Data project?”</p> <p>The Future Entity’s endeavours must be confined to the activities of open banking. Otherwise, there will be an organisation initially funded by the CMA9, having free ownership of intellectual property, assets, customers and guaranteed income, potentially moving into other vertical “open” markets with a significant unfair competitive advantage.</p>
<ul style="list-style-type: none"> • Are there any other issues regarding transition arrangements which the CMA should be aware of? 	<p>Why should the Future Entity solely provide these services? There are many existing organisations fully capable, and proven. They are used by many other ASPSPs in Europe and are able to provide these services at competitive market rates. Why should/would the Future Entity carry the burden of cost for providing these services? The Future Entity could endorse service providers who have demonstrated their capability to provide approved services driving competitive market pricing and choice of supplier. Furthermore, such a structure ensures the UK can benefit both from the economies of scale that independent organisations bring to the market but also the innovation they offer.</p>