

**Kiwibank submission to the  
Commerce Commission on  
'Retail Payment System:  
Consultation on our proposal to  
recommend designation of the  
interbank payment network'**

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**Date: 17 May 2024**

**Kiwibank submission to the Commerce Commission on ‘Retail Payment System: Consultation on our proposal to recommend designation of the interbank payment network’**

**Executive summary**

1. Kiwibank welcomes the opportunity to provide feedback to the Commerce Commission on *Retail Payment System: Consultation on our proposal to recommend designation of the interbank payment network (Consultation)*.
2. Kiwibank does not support the Commission’s proposal to recommend designation of the interbank payment network. We have significant concerns about this proposal, many of which were raised in response to the Commission’s previous consultation *Request for views on payments made over the interbank payment network (2023 consultation)*. We are disappointed that the Commission has not responded to or engaged with the matters raised in our previous submission.
3. The Consultation says that if the Commission does decide to designate (which it has not yet determined), and a designation order is made, it will consult with affected parties before exercising additional regulatory powers. However, Kiwibank remains concerned that the Commission is seeking to achieve some predetermined outcomes through the consultation process, one of which is to bring forward Kiwibank’s delivery of the API Centre open banking API standards. This is reinforced by comments in the Consultation that imply Kiwibank is dragging its feet in delivering open APIs and inhibiting the development of a ‘thriving API-enabled ecosystem’. Similarly, by the Commission’s recommendation in the personal banking market study draft report that open banking should be fully operational by June 2026. As explained here and in our response to the 2023 consultation, there are reasonable policy grounds for taking a staged approach to the implementation of significant regulatory change – most relevantly, the principle of proportionality. It is also appropriate taking into account Kiwibank’s programme of work to upgrade its core banking systems which will provide the foundation for innovation.
4. We observe that the pent-up frustration for open banking should not result in a regulatory reaction that may not deliver an ecosystem for open banking that is both safe and accessible. We want to avoid regulation by anecdote. The Commission’s suggestion in its Consultation and the Reserve Banks’ response to the personal banking market study draft report both suggest significant unrealised gains from open banking but have not provided the data to confirm what those use cases are or, in the Commission’s situation, what designation will deliver to achieve those benefits.
5. We strongly support calls at the recent conference on the personal banking market study for an integrated roadmap for the delivery of open banking. A carefully considered and well executed roadmap is more likely to set Aotearoa up for a thriving digital economy.

**Rationale for a staged approach to implementing open banking**

6. Kiwibank has committed to the API Centre Minimum Open Banking Implementation Plan (**Implementation Plan**) which requires us to deliver payment initiation open APIs by 30 May 2026 and account information open APIs by 30 November 2026. The Implementation Plan allows for a staged approach to delivering open APIs, with the big four Australian banks (otherwise known as the domestic systemically important banks, or **D-SIBs**) required to deliver these two years ahead of Kiwibank.
7. For the avoidance of doubt, Kiwibank is actively working towards meeting this timeline. By late-2026 Kiwibank expects to be both technically and operationally ready for open



banking, and able to partner with third parties across both payment initiation and account information standards. We also anticipate that during this time we will be able to learn from practical issues that arise in the D-SIBs' delivery of open APIs, and contribute to a more efficient partnering system.

8. The rationale for a staged implementation was set out in our submission on the Commission's 2023 consultation. At that time, we also met with the Commission to provide additional context regarding Kiwibank's transformation. To reiterate, a staged approach to implementation reflects:
  - a) The orthodox approach to implementing open banking deployed in comparable jurisdictions – most relevantly, Australia and the UK as noted in our previous submission. It is logical to also adopt this approach in Aotearoa where the D-SIBs not only dominate the market, but also have the recent experience of their parent banks' implementation of CDR in Australia to draw on. The Australian parents of the D-SIBs will doubtless provide practical insights and learnings to streamline delivery, particularly in relation to the more complex aspects of open banking like integration, managing data security, and fraud.
  - b) A proportionate application of standards to industry participants of different sizes and scales. To reiterate, [REDACTED] interbank payments are processed by Kiwibank<sup>1</sup> and we are approximately 3.5x smaller than the smallest D-SIB by balance sheet size.
  - c) What is achievable for Kiwibank, taking into account our multi-year transformation to upgrade our core banking system. We will not go into detail about Kiwibank's transformation here as it is discussed in our submission on the personal banking market study draft report. We do, however, wish to highlight the clear feedback from fintechs at the personal banking market study conference that it is significantly more challenging to build open banking solutions onto legacy core infrastructure.
9. We are disappointed that the Consultation does not refer to international best practice or proportionality in relation to implementation of open banking, or Kiwibank's previous submissions on this point. Rather, it talks about the "timely delivery" of open APIs and implies that Kiwibank is dragging its feet on the implementation of open APIs, thereby inhibiting the development of a thriving API enabled ecosystem. Similarly, the Commission's draft report on the personal banking market study groups Kiwibank with the D-SIBs for the purposes of its open banking recommendation, despite all other parts of the report clearly distinguishing Kiwibank from the D-SIBs.
10. We strongly disagree with this, particularly the statement that access to 90% of consumers is necessary to develop a commercially viable API-enabled product. The Commission has provided no empirical evidence or analysis to justify the choice of this figure, which appears both arbitrary and pitched too high. In our view, if a use case is not successful with access to over 80% of consumers, it is more likely to be a reflection of customer demand for the use case. In any event, the D-SIBs process [REDACTED] interbank payments,<sup>2</sup> so access to a marginally smaller pool of consumers ([REDACTED] what the Commission considers optimal) will only be for a period of two years as Kiwibank will be operationally ready to partner with third parties in late-2026.
11. Finally, we expect much of the period between 2024 and 2026 will be spent developing a more efficient partnering system for third parties and banks, including an accreditation regime and standardised terms and conditions for partnering. This assumes that

[REDACTED]

Payment NZ's (**PNZ**) application for the authorisation of restrictive trade practices (**Authorisation Application**) is granted later this year. That will significantly simplify the partnering process, enabling banks to onboard more third parties more quickly and at lower cost to both.

12. If the Commission pursues a designation, which seems to be the very likely outcome of this process, we would ask that it confirms at the same time that it is not looking to use its powers to bring Kiwibank's implementation date forward.

### **Insufficient evidence for recommending designation**

13. The Commission's rationale for recommending designation is largely based on an assertion that there is significant and urgent unmet demand in Aotearoa for new payment options.
14. Kiwibank strongly supports the concept of open banking and believes it will benefit Kiwi over time. However, it is not a silver bullet or a short-term solution. Open banking is not an end state, it will continue to evolve in response to customer demand and use cases in market. Building consumer confidence and uptake will take time. The magnitude of the benefits it will deliver in the short and long term are difficult to predict in a small market like Aotearoa.
15. In order to deliver open banking in the most impactful, efficient way the sector would benefit from an integrated roadmap laying out how it could be delivered, over what timeframe, and what regulatory support is needed for that. We note that there was universal support for this suggestion at the personal banking market study conference.
16. As we have submitted previously, we consider the proposed designation will contribute to a piecemeal and fragmented open banking framework which will not deliver the best outcomes for Aotearoa, particularly given that it is very likely to overlap with MBIE's proposed Consumer and Product Data Bill (which, we note, has now been introduced to the House). Uncertainty regarding the interaction between the API Centre's work and the development of the CPD Bill has previously been a significant factor slowing the delivery of open APIs. At that time, the industry was concerned that the legislative framework could partially or entirely overtake industry-led initiatives. It was also hoped that legislation would resolve issues around privacy, security, and liability, which would have removed the need for the Authorisation Application.
17. It is also not clear to us that the scale of unmet customer demand is as significant or urgent as the Consultation suggests, or that this unmet demand justifies the Commission's proposed intervention. We would welcome the publication of empirical analysis or data to support the Commission's conclusion. We note the Commission's comment at our recent bilateral meeting that unmet demand is inferred from the uptake of POLi and other payment methods using 'sub-optimal' methods to access the interbank payment network. However, that is not a robust data point and cannot be the only evidence supporting the Commission's conclusion about unmet demand. Without supporting data, it is not possible to assess the validity of that claim, and therefore whether the Commission's efficiency mandate has been met in light of the significant cost that is likely to flow from designation.
18. Kiwibank's view is that the scale of unmet demand in a small market like Aotearoa's is likely to be much lower. This is based on data on consumer uptake in Australia and the UK, as noted in our submission in response to the 2023 consultation. Also, we would

expect consumers to be sceptical of new and untested payment methods as a result of heightened awareness of the risk posed by fraud, scams, and cyber threats.

19. We therefore support the Commission, in collaboration with the banking and fintech sectors, consumer advocates, MBIE, and the Minister for Commerce and Consumer Affairs, focusing its energy and resources on developing an integrated roadmap for the delivery of open banking. Kiwibank would welcome the opportunity to contribute to that.

### **Next steps**

20. We appreciate the Commission's ongoing engagement with us on this topic, particularly the free and frank discussion at our bilateral meeting on 10 May 2024. We are happy to meet with the Commerce Commission to discuss our submission.