Personal banking services

Market study submission from Akahu

18 April 2024

Introduction

Thank you for the opportunity to submit feedback on the draft report.

Akahu supports the findings and 16 recommendations.

Our feedback below is limited to paragraphs 9.125 and 9.118 of the draft report.

About Akahu

Akahu is an open finance intermediary which is solely focussed on the New Zealand market.

We provide bank account connectivity services to a broad range of Government, corporate, and fintech customers.

We support both data and payment use cases, and process around 1m API calls each day in relation to data and payment requests.

Accelerate momentum toward open banking

Paragraph 9.125.1 invites feedback on "what is needed to achieve alignment and maintain and accelerate momentum toward open banking."

We need a regulator to step in

In our view, it's clear that a regulator needs to step in and set the rules for open banking in New Zealand.

There are many issues that industry has been unable or unwilling to resolve over the last seven years, such as:

- **Control of third parties**: Banks have sole discretion over which third parties are provided with access to standardised APIs.
- **Control of use cases**: Banks have sole discretion over which use cases are supported.
- **Payment limits**: Banks set variable and low payment limits that do not cater for many use cases that exist today. In our experience, these limits are significantly lower than bank-owned channels, which limits the viability of the open banking channel.
- **Control of payees**: Banks may require manual approval of any new destination payment account if the payment is initiated by a third party. This is not required in bank-owned channels, and it limits the viability of the open banking channel.
- **Control of fees**: Banks set fees, which in our experience can be economically unviable.

- **Control of other contractual terms**: Banks can set other contractual terms which are not possible for a third party to comply with, such as insurance requirements that are not commercially available.
- **Control of the customer experience**: Banks provide authentication and consent flows, which in our experience can be visually unappealing and overly complex for customers. This will make it harder for third party services to gain consumer adoption.
- **Conformance and performance**: Banks are not bound by meaningful commitments in relation to the conformance and performance of their APIs. To gain consumer adoption, performance should be equivalent to the performance of APIs that are serving bank-owned channels, and non-conformance should be penalised.

Liability in the current bilateral environment

Without a regulatory framework, each third party needs to negotiate a bilateral contract with each bank in order to use that bank's APIs.

There is a philosophical difference at the heart of many issues with bilateral contracts. Banks tend towards the view that they are "partnering" with third parties to deliver approved services to their customers. In contrast, the premise of open banking is to give customers enhanced access to their financial data, with the consumer in control of that access rather than the bank.

A regulator is required in order to resolve this philosophical divide. Without regulation, banks will have some responsibility to vet and manage third parties in order to discharge a duty of care to their customers. Historically this has given banks a reason to reject third parties or use cases on the basis of risk management. In our view, this position has been used to slow and block progress with open banking.

The authorisation application from Payments NZ

We note that the authorisation application is intended to enable the development of standard terms to access standardised APIs. If this workstream was successful, it would go some way towards centralised accreditation, and potentially lead to reduced blocking of third parties and use cases.

However we are concerned that this process would further delay the development of open banking, and there is no certainty that acceptable terms will be agreed through the process.

We don't think that the API Centre is a neutral forum for developing such rules, given that it is owned and predominantly funded by incumbent banks. It's also difficult for third parties to advocate strongly in API Centre forums, knowing that each bank has control over whether that third party will be granted access to the bank's APIs. We think there's a material risk that this forum would lead to terms that favour the incumbents and make open banking adoption more difficult.

Even if the process to develop standard terms was successful, and the terms were acceptable, each third party would still need to negotiate a bilateral agreement with each bank, because some elements such as fees were not included in the scope of the authorisation application. This would leave banks with practical control of which third parties are able to access standardised APIs.

We provide further comments in our previous submission to the Commerce Commission in response to the authorisation application[1].

Innovation is stymied with the current uncertainty

In our experience, the bank bilateral agreements enable the bank to terminate the agreement upon notice without cause.

So even if a third party is able to enter into bilateral agreements with all major banks on acceptable terms, and accept all of the API constraints detailed above, there would still be uncertainty about the viability of the third party service.

If just one bank blocked access, or insisted on non-viable fees, or took other action (or inaction) to prevent its customers from using the third party service, it could lead to non-viability of the third party service.

This uncertainty makes it very difficult to raise capital to build and sustain a third party service in the current environment.

Designation

We support the work that the Commerce Commission is doing in relation to potential designation of the interbank payment network.

However, we think that instead of recommending designation and then waiting to see if further action is required, as proposed in the most recent consultation, the Commerce Commission should act immediately to intervene after designation in order to resolve the issues that are detailed above.

Open banking functionality that falls outside of the API Centre's focus

Paragraph 9.125.2 invites feedback on "whether there may be additional open banking functionality that falls outside of the API Centre's focus. This could include, for example, additional action initiation functionality such as 'open or close an account', or 'change plan'

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https://comcom.govt.nz/__data/assets/pdf_file/0036/344898/Akahu-Submission-in-response-to-Payments-NZ-Authorisation-Statement-of-Preliminary-Issues-26-February-2024.pdf (though the latter may be more relevant to other sectors such as energy or telecommunications), other functionality that would support home loan customers, or product information APIs that would support search and switch."

Yes, in our view there is some important open banking functionality that falls outside the API Centre's current focus.

APIs due to be released in 2024

The big four banks have publicly committed to delivering a payment API and a data API during 2024. The functionality of these first versions is basic. Out of Akahu's 51 customers that are using open banking services in production environments:

- Zero would be able to migrate their existing functionality to v2.1 of the payment initiation API that the big four banks have committed to releasing on 30 May 2024.
- 6 may be able to migrate their existing functionality to v2.1 of the account information API that the big four banks have committed to releasing on 30 November 2024 (depending on the quality of the data, the performance of the APIs, and the terms of access).

So even if the barriers described in the section above were overcome, the first API versions are too limited for much of the open banking functionality that exists today via alternative connectivity methods.

Future versions of APIs

We think that future versions of the payment initiation and account information standards will deliver improved functionality, and we support the continued development of bank APIs in alignment with those future versions.

However there are some important components that are not yet addressed in the standards, such as:

- Handling payment initiation from a bank account that requires multiple authorisers. This means that many businesses and non-profit organisations are currently unable to use open banking payments.
- Handling an enduring payment consent that is not limited to specific destination account(s). This functionality is used by a broad range of organisations today, and is important for seamless bill payment, payroll, peer-to-peer, top-up, business automation, and other payment solutions.

There are additional components outside of standard open banking APIs that would be valuable for a regulator to address, such as proxy identifiers. These unique identifiers could address the need for bank account number portability, by solving the issue of having a consumer's unused bank account number in another consumer's saved payee list. These identifiers would reduce the barrier to switching banks, and would also make it easier for consumers to adopt new technology such as initiating payments via QR codes.

Product information APIs

We agree there is significant value in having product data that is easily available and understood, and that enables consumers to compare and select the optimal product for their needs.

However In the banking sector, product data can often be scraped from public bank websites without the need for customer consent. So there is not a major blocker to compiling comparison data (at least on the basis of publicly available rates).

We think that any requirements relating to product data should be developed carefully. For example if "compare and switch" services become popular, prescribed product disclosures could have unintended negative consequences by encouraging banks to focus solely on the prescribed features instead of innovating holistically.

We think it's useful to consider requirements relating to product data, but we think that any requirements need to be considered carefully to avoid unintended effects.

Open banking being fully operational by June 2026

Paragraph 9.125.3 invites feedback on "a recommendation open banking is fully operational, including APIs that enable a range of personal banking products and services be available, by June 2026."

"Fully operational"

In our view, open banking APIs should continue to iterate over time in order to deliver more fulsome functionality, and to develop alongside the evolution of core banking services.

This makes it difficult to define a specific version of APIs as being "fully operational".

But to us it's clear that an industry-led approach will not get close to a fully operational state. Instead, we believe that a regulator must step in to address the issues discussed in the sections above.

Regulated timeframe

As discussed above, we think that regulation is necessary to deliver meaningful open banking adoption. This includes regulated timeframes.

We support the proposed timeframe of June 2026. But we note that API requirements need to be included alongside the proposed timeframe in order to consider the potential consumer value.

API Centre and Payments NZ

Paragraph 9.118 invites feedback on "whether the present governance arrangements of the API Centre, and Payments NZ's Board oversight, are fit for purpose to deliver open banking."

Ownership and funding

A key purpose of open banking regulation is to promote competition and innovation. Given that purpose, we think it's untenable for an organisation which is owned and funded by the incumbent banks to be controlling the development of open banking rules.

The track record supports this view - since the bank-led work began in 2017, the delivery of APIs, and ability for third parties to access those APIs, has been extremely limited. As a result, third parties and New Zealand consumers continue to be limited to suboptimal connectivity methods.

Power imbalance

The API Centre is not a suitable forum to facilitate the development of open banking standards:

1. The inherent conflicts from ownership and funding create a significant risk that bank interests are over-weighted during the development of standards. This risk is further heightened because banks have considerable resources available to contribute to API Centre forums, whereas most third parties have more limited resources available. If standardised terms developed through API Centre end up being adopted in consumer data right regulation, or other open banking-related regulation, this bank over-influence would persist.

2. It's difficult for third parties to advocate strongly in API Centre forums. Each third party knows that it will need to negotiate bilateral contracts with each bank. The bank representatives responsible for bilateral contracts are often the same people that participate in API Centre forums. So if a third party advocates strongly on points that are not aligned with bank interests, it jeopardises the ability for that third party to negotiate a bilateral contract with each bank. A high level of bank coverage is critical for almost all third party services. So even if a single bank decides to block access to a third party, that could have the effect of making the third party service unviable.

Summary

Since 2017, we've been told by incumbent banks that there is no need for open banking regulation because the industry is committed to delivering it themselves. Given that very limited progress has been made over the last seven years, we think that the banking sector has lost the right to continue its attempts at self-regulation.

Final words

We don't think that open banking is a panacea for competition and innovation in personal banking services. But we do expect it to have a material positive impact.

Open banking can support increased competition for deposits and loans by making it easier for consumers to compare and switch providers. We expect that this competition will drive better rates for consumers.

Open banking can support increased competition and innovation for account to account payments by creating a regulatory framework to initiate bank payments in third party services. We expect that this competition and innovation will drive convenient and cheap payment options for consumers.

It's also worth noting that many of the use cases for open banking lie outside of the market for personal banking services. For example open banking can be used to support functionality in accounting, budgeting, and payroll services. These services are not within the scope of the market study, but these types of adjacent markets would also benefit from increased competition and innovation if New Zealand introduces right-sized and effective open banking regulation.

We look forward to remaining engaged through the remainder of the market study.