
Discussion paper on open banking regulations and standards under the Customer and Product Data Bill

Payments NZ Limited submission to MBIE

15 October 2024

A. Introduction

Payments NZ Limited (Payments NZ) welcomes the opportunity to make a submission to the Ministry of Business, Innovation and Employment Hikina Whakatutuki (MBIE) on the discussion paper - *Open banking regulations and standards under the Customer and Product Data Bill*, published on 29 August 2024.

Payments NZ's API Centre has led open banking in Aotearoa New Zealand since its establishment in 2019. This ongoing work in conjunction with industry stakeholders is a core payment system activity for Payments NZ.

We have always stayed aligned with regulators to realise a shared goal of seeing open banking thriving. We consider Aotearoa is well placed to achieve this outcome, given the considerable progress achieved by the API Centre through its ongoing work. This has laid the foundations and led the growth of an open banking ecosystem.

There is now a great deal of momentum with this industry-led work. Over the last two months we have:

- Published our updated Minimum Open Banking Implementation Plan for our v2.3 Account Information and payments Initiation standard, which includes enduring payment consent.
- Supported implementation of the v2.1 Account Information API standard by 30 November 2024 on the part of ANZ, ASB, BNZ and Westpac.
- Developed updated standards user obligations in relation to customer consent disclosures when an intermediary is engaged.
- Made substantial progress on the development of our performance standards, with our v1.0 performance standard to be finalised in 2025.
- Submitted and presented to the Economic Development, Science and Innovation Select Committee on the Customer and Product Data Bill (the Bill or CPD).
- Developed a model for standards management under CPD (further detailed in this submission).

We have also finalised an ambitious work plan for the year ahead, to September 2025. Key elements of this work plan include developing and publishing an updated open banking roadmap which includes establishing the next priority for new standards development; developing Māori data governance data handling and consent best practices; streamlining our Terms and Conditions (Ts & Cs) and making customer and operational standards accessible in the public domain; and completing a customer safety and experience initiative including refreshing our customer experience guidelines.

Further workstreams include finalising our v1.0 performance standard, revising our Minimum Open Banking Implementation Plan to build on dates already set for 2025, considering payment limits in an open banking context, and continuing to progress our partnering project following authorisation from the Commerce Commission Te Komihana Tauhokohoko in August this year.

We recognise that the coming year will be crucial in determining how our open banking ecosystem in Aotearoa will be shaped for years to come. In addition to pressing on and delivering our work plan, we look forward to providing substantial input into how the API Centre's role and work, the establishment of CPD and the Commerce Commission's focus on open banking payments might all cohesively come together.

In this submission, we draw on our experience to provide a clear view as to how CPD should build on the API Centre's developments and momentum to make the benefits of open banking available to New Zealanders.

Matters which we consider to be fundamental are contained in the main body of this submission. We then go on to provide responses to the bulk of the questions that have been posed in the discussion paper, at Appendix 1. We have also included a paper detailing our proposed recognition model at Appendix 2.

B. Key takeaways

Setting the way forward

For the Bill to advance open banking beyond what has already been achieved and is being worked on, a well-coordinated and comprehensive way forward needs to be established.

1. The discussion paper uses a draft Bill as its foundation. Any changes to the Bill, including those we have advocated for, may change the basis of the discussion paper. This creates an unstable, uncertain and dynamic situation. Any formal consultation that is required should only occur once the Bill is in a final or near-final stable state.
2. There is no clarity on the forward process to establish CPD. A CPD policy roadmap should be developed to support more meaningful engagement with industry on the framework and operational design of CPD.
3. In the build-up to establishing CPD, MBIE is consulting on matters the industry has already settled or is actively working on, but offers no clear bridge to that work. To maintain momentum, it will be important to manage and coordinate CPD's cross-over impact on existing standards and current API Centre work.
4. MBIE's discussion paper on accreditation criteria directly overlaps with the partnering project, which is underway following the Commerce Commission's authorisation. We propose that MBIE pauses any work related to developing an accreditation framework and allows industry, via the API Centre's partnering project, to put forward an accreditation framework within appropriate timeframes.
5. Open banking is substantially implemented with continuing industry effort through the API Centre. Once established, CPD aims to build on industry's developments and momentum. The Commerce Commission is also aiming to build on industry's work in open banking payments. More engagement and collaboration is required to bring together all of these dynamic industry and regulatory initiatives and efforts, in order to provide a clearer view and pathway on the future of open banking in Aotearoa.

Sustainable success via the recognition model for standards management

For any rollout of regulated open banking to be successful on a sustainable basis, we first need to have a clear understanding of what is being aimed for. We propose that the model that should be aimed for – one that builds on industry progress and lays the foundation for sustained success into the future – is the recognition model for standards management.

6. The role of the API Centre in supporting the CPD regime for open banking should be determined before discussing whether or not any changes are required to its institutional arrangements.
7. CPD needs to establish a mechanism for standards management and for working with private enterprise to achieve common objectives.
8. Our proposed recognition model sets up the sustainable development and management of open banking standards, allowing the proposed regulation to leverage the strengths of the API Centre's and industry expertise.
9. The API Centre is aligned with MBIE's indication that it is best placed to play a lead role in developing and managing standards. However, a more complete set of standards management functions needs to be recognised.

Comprehensive answers to consultation questions

Detailed answers to MBIE's consultation questions have been provided at Appendix 1.

C. Setting the way forward

For the Bill to advance open banking beyond what has already been achieved and is being worked on, a well-coordinated and comprehensive way forward needs to be established.

1. Discussion paper based on a draft Bill

The discussion paper uses a draft Bill as its foundation. Any changes to the Bill, including those we have advocated for, may change the basis of the discussion paper. This creates an unstable, uncertain and dynamic situation. Any formal consultation that is required should only occur once the Bill is in a final or near-final stable state.

Situation:

The discussion paper makes extensive reference to clauses in the Bill, and then discusses the use of secondary legislation with respect to various issues, proposals and approaches. These discussions are happening in abstract in the absence of legislative backing.

MBIE has not described how this discussion paper fits into the process to designate the banking sector and establish regulations and standards, and what further opportunities there will be to engage with the open banking community.

Issue:

The discussion paper was published by MBIE while Payments NZ (and other stakeholders) was preparing its written submission to the Economic Development, Science and Innovation Select Committee on the Bill. This has created a situation where a discussion paper on regulations and standards is being progressed before the relevant primary law has been settled and enacted.

Payments NZ and other stakeholders have submitted to the Select Committee requesting that material changes be made to the Bill. Any resulting changes to the Bill could substantively change the basis of this discussion paper. This creates uncertainty and undermines the value of stakeholder responses now being made to MBIE.

There is an obligation in the Bill to consult on designation regulations and to have regard to a range of matters, all of which are referenced in the discussion paper. However, it is not clear whether the discussion paper represents the required statutory consultation, or if it is a precursor to that process.

While this discussion paper has not been described as a consultation, Payments NZ understands that responses to this discussion paper will inform MBIE's substantive policy recommendations to the Minister on the designation of the banking sector and what any designation regulations should aim to achieve. We are concerned the discussion paper may be used to fulfil consultation obligations under the law without this being made clear to the persons who are affected.

Our proposal:

We propose that any formal consultation on matters that must be considered as a part of the process to designate a sector, and to promulgate regulations or standards, should only occur when the legislation is in a stable or near-final state.

Any formal consultations on designation should be based on a clearly signposted and understood process to ensure that MBIE receives appropriate input from the persons who are going to be affected.

2. Forward process to establish CPD

There is no clarity on the forward process to establish CPD. A CPD policy roadmap would support more meaningful engagement with industry on the framework and operational design of CPD.

Situation:

MBIE expects the Bill to be passed in early 2025. Regulations and standards would then need to be made under the legislation, with an appropriate transition period for designated banks to implement the open banking requirements. Designation of the largest four banks is being targeted for 1 December 2025.

Issue:

MBIE has put clear stakes in the ground, signalling that the banking sector will be designated, with the largest four banks becoming designated persons required to implement current API Centre standardised APIs by 1 December 2025, and to make them available to accredited requestors.

While this aligns to the API Centre's Minimum Open Banking Implementation Plan, there is no clear roadmap for how CPD will be delivered and converge with existing API Centre and market implementations and activities over the coming 14 months.

Our proposal:

To provide clarity for the sector and support meaningful engagement towards shared goals across industry and regulators, we propose that MBIE publishes a CPD policy roadmap which sets out the sequencing of key milestones towards an assumed designation of the banking sector.

This CPD policy roadmap should include what opportunities the API Centre and industry will have to contribute and provide feedback on how the Bill, and any related regulations and standards, could optimally support open banking.

A CPD policy roadmap would also provide Payments NZ with the ability to consider the API Centre's role in open banking, and where appropriate align its activities and work programme to support industry delivery of the CPD's objectives and work plan (see next section) and any convergence impacts.

3. Cross-over impact on current industry work and standards

In the build-up to establishing CPD, MBIE is consulting on matters the industry has already settled or is actively working on, but offers no clear bridge to that work. To maintain momentum, it will be important to manage and coordinate CPD's cross-over impact on existing standards and current API Centre work.

Situation:

Unlike other countries, Aotearoa has an opportunity to build on industry and market momentum in open banking with regulation that complements the work of the API Centre and industry, to accomplish a thriving, innovative and competitive open banking ecosystem.

Payments NZ's API Centre has been leading the industry's delivery and implementation of open banking, and we are committed to continuing to play this role into the future, including within future legislative and regulatory frameworks.

Significant industry effort and investment has delivered the necessary components to effectively and safely unlock open banking. 2024 has proven to be a key year for bringing these components together and seeing innovative solutions reach the consumer market. There is more work to be done ahead of CPD's establishment. Industry investment, effort and focus continues to ramp up via an ambitious work programme into 2025. Wider payments modernisation through Payments NZ's strategy programme and consultation on 'payments for the next generation' will also see heightened focus in 2025, including on building an ecosystem capability roadmap focussed on digital and data-rich infrastructure.

Issue:

Reflecting on the discussion document, we highlight that:

1. MBIE is consulting on matters industry has already examined, resolved and standardised. Examples include the duration of data sharing consent, payments consent requirements, and customer data in the Account Information APIs. MBIE risks creating variations or conflicts between its conclusions and established industry best practice standards.
2. MBIE is also consulting on a range of matters the industry is currently working on. Examples include accreditation criteria (see next section), performance standards, potential payments functionality to develop in future standards, customer consent obligations, customer safety practices, and implementation timetables. This approach creates a duplication of cost and effort, and effectively devalues industry work to date in these areas.
3. The bridge between CPD regulations and how they might relate to past and current API Centre and industry work is not yet fully clear.
4. MBIE is proposing to set rules, that would otherwise be in standards, as regulations "at least in the interim"¹.

These issues are compounded by there not being any clear model or mechanism in place for privately-owned standards, such as the API Centre standards, to be recognised under the law once CPD has been established.

There is a significant risk of additional costs where the scope of what is being implemented via the API Centre's open banking implementation plan varies from the final regulations and standards determined under the law – leading to direct costs on data holders (a consideration in clause 98 of the Bill) as well as those third party organisations who have developed their technology in accordance with API Centre standards.

¹ See MBIE discussion paper #134

Our proposals:

1. We propose that MBIE does not consult on content and detail contained within an existing API Centre standard (which includes standards within API Centre Ts & Cs, Security Profiles, and published guidelines). The focus should instead be on how it might arrange for a technical API standard, in its entirety, to be recognised and adopted under the law.
2. For standards, we propose that MBIE focus on the outcomes that the standard aims to achieve and the appropriate process to develop and manage standards (initially and on an ongoing basis), as opposed to the content of the actual standard itself. This was previously contemplated in the incorporation by reference provisions in the Exposure Draft of the Bill (at clause 89(3)) and we recommend that this be considered again.
3. We propose a recognition model approach to standards management, so that MBIE can effectively build on API Centre and industry progress and current momentum. This harnesses the API Centre's experience and expertise which we think is vital for building a flourishing open banking ecosystem. It is also vital in terms of efficiency, in particular to avoid the duplication of effort and cost. We detail this further in Section 6 of our submission.
4. We propose that MBIE refrains from using regulations in lieu of standards in the interim. Although this approach may appear faster, it will ultimately take longer to deliver a thriving open banking ecosystem and will cost more. Through clarification of standards management under the Bill and proposed inclusion of our recognition model for standards management, MBIE has an opportunity to set out an operationally efficient means to deliver regulated open banking in the near term, as well as ensure new standards are developed and evolved over time.

In addition, the current API Centre project on partnering and accreditation criteria requires particular consideration in the build-up to establishing CPD, as discussed in the next section.

4. Requestor Accreditation Criteria

MBIE's discussion paper on accreditation criteria directly overlaps with the partnering project, which is underway following the Commerce Commission's authorisation. We propose that MBIE pauses any work related to developing an accreditation framework and allows industry, via the API Centre's partnering project, to put forward an accreditation framework within appropriate timeframes.

Situation:

In January 2024 the API Centre sought authorisation from the Commerce Commission to develop and use a partnering framework. Authorisation was granted in August 2024, for a period of 18 months, and the partnering project is now underway.

The discussion paper acknowledges the partnering project², but then immediately cites concerns about the market power of banks and whether any conditions that are imposed on third parties may be too restrictive or costly³. Several conditions placed on Payments NZ by the Commerce Commission, specifically to mitigate these concerns, are not acknowledged in the discussion paper.

The discussion paper also sets out proposed accreditation criteria and asks consultation questions in relation to the criteria⁴. These matters directly overlap with the Commerce Commission's authorisation and the scope of the API Centre partnering project.

Issue:

It is not known what MBIE intends to do with the information they receive from submissions in relation to the accreditation criteria. Relevant MBIE timeframes, and how these relate to the API Centre partnering project, are also unknown.

In addition, it is not known what role the API Centre's partnering project will play, if any, in informing the MBIE's development of CPD accreditation criteria.

Payments NZ, the API Centre and API Standards Users have made a significant investment in seeking the Commerce Commission's authorisation to progress the partnering project.

The discussion paper and a lack of information on how MBIE intends to proceed on this has created uncertainty about the API Centre's ability to deliver the partnering project.

Our proposal:

We propose that MBIE pauses any work related to developing an accreditation framework, and allows the API Centre's partnering project to put forward recommendations on the accreditation framework within appropriate timeframes.

This could be done in liaison with MBIE, and the project's resulting accreditation framework findings could then be leveraged by CPD regulations.

We also invite MBIE's engagement with the API Centre's Accreditation and Partnering working group to jointly agree a coordinated pathway and timeframes for matters in relation to the design of the accreditation criteria.

² See MBIE discussion paper #19

³ See MBIE discussion paper #20

⁴ See MBIE discussion paper #85-117

5. A longer-term view that builds on industry momentum

Open banking is substantially implemented with continuing industry effort via the API Centre. Once established, CPD aims to build on industry's developments and momentum. The Commerce Commission is also aiming to build on industry's work in open banking payments. More engagement and collaboration is required to bring together all of these dynamic industry and regulatory initiatives and efforts, in order to provide a clearer view and pathway on the future of open banking in Aotearoa.

Situation:

One of MBIE's stated policy objectives in the discussion paper is that any regulation "builds on existing industry developments and momentum."⁵ However, the discussion paper does not give any consideration to *how* the law will harness the work of the API Centre and industry developments (including products and services in or soon to be in market) and advance further momentum once CPD has been established.

Outside CPD, other initiatives are also focusing on the future of open banking in Aotearoa – most notably the API Centre's ongoing work and the Commerce Commission's focus on open banking payments. There is not yet any clear view of how these will converge, if at all, to work together in unison.

Issue:

The enactment of the law, the designation of the banking sector, and the regulation of open banking standards will not be sufficient by itself to build on industry momentum and advance open banking in Aotearoa. While 1 December 2025 will be a significant milestone, it only represents CPD's starting point.

There is not yet any clarity as to how an established CPD relates to the Commerce Commission's recommendation targeting open banking being "fully operational" by June 2026. The Commerce Commission has indicated it proposes using its powers under the Retail Payment Act solely to expedite open banking payments ahead of CPD, and it is unclear how this initiative will fit into what is being done presently in terms of the transition towards CPD. It is also unclear how the Commerce Commission's recommendation to have an all-of-Government approach to adopting payments enabled by open banking functionality will feature in wider open banking plans across the ecosystem (including industry, market and between agencies).

Overall, there is not yet clarity on how open banking will bring together many overlapping and regulatory open banking initiatives, including: the Bill; CPD consultations on regulations and standards based on a draft Bill, including on open banking payments; the Commerce Commission's proposed designation covering open banking payments; the Commerce Commission's recommendation for an all-of-Government approach to adopting open banking payments; the API Centre maintaining its current momentum on initiatives that may or may not be encompassed by CPD; and designing the future model for open banking standards management under CPD.

Combined with a lack of understanding regarding use of privately-owned standards, this lack of clarity in regulation creates risk that current and potential third parties will have weak incentives to use the API Centre's standardised APIs in advance of the banking sector's expected designation on 1 December 2025 (or some later point if CPD is delayed). This would have the net effect of slowing open banking's existing momentum and delaying product and service delivery in market to consumers and businesses.

⁵ See MBIE discussion paper para #35b

Our proposal:

We propose that more engagement and collaboration is required to bring together all of the dynamic industry and regulatory initiatives and efforts in order to provide a clearer view on the future of open banking in Aotearoa.

In their recent recommendation to designate the interbank payment network, the Commerce Commission indicated that, should the designation go ahead, “...an MoU between the Commission and MBIE may be a useful mechanism to clarify the coordination of roles”⁶. This example, whereby roles, objectives, and agreed outcomes are proactively agreed between regulators, would in turn greatly support industry to align with regulators, maintain momentum, and contribute effectively to shared goals.

This collaborative approach to agree clear roles, objectives and outcomes would also complement our proposal that MBIE publish a CPD policy roadmap.

⁶ Para 4.78: “Retail Payment System. Our reasons to support our recommendation to the Minister to designate the interbank payment network – August 2024”

D. Sustainable success via the recognition model for standards management

For any rollout of regulated open banking to be successful, we first need to have a clear understanding of what is being aimed for. We propose that the model that should be aimed for – one that builds on API Centre and industry progress and lays the foundation for sustained success into the future – is the recognition model for standards management.

6. Determine the target model before considering institutional arrangements

The role of the API Centre in supporting the industry to deliver within the CPD regime for open banking should be determined before discussing whether or not any changes are required to its institutional arrangements.

Situation:

The API Centre has an established governance and operating framework, with clear governance roles and responsibilities, and standards user obligations. It offers products (in the form of standards) and services to its members on a fee for service basis. The primary construct is the API Centre's Ts & Cs, which is a contract between Payments NZ and API Standards Users. This puts obligations on all parties, including obligations on API Standards Users to safely use and implement open banking standards.

Responsibility for managing the API Centre's work programme and approving standards rests with the self-governing API Council, which has a balanced composition of representatives from banks and third parties as well as independent members. The Payments NZ Board approves changes to the Ts & Cs (as Payments NZ is a party to the contract) and approves the funding for work plans recommended by the API Council. The Board's independent directors now also have a role in governing the API Centre's partnering project, as per the authorisation approval from the Commerce Commission.

The discussion paper raises questions about Payments NZ's governance structure and what it means in the context of the API Centre continuing to play a role under the new law. It sets out API Centre governance change options and seeks public feedback on those options.

Issue:

MBIE is seeking feedback on the API Centre's governance structure ahead of a clear model being established for how CPD standards will be developed, managed and maintained over time.

Given Payment NZ's status as a private company, and in the absence of a model for standards management, it is unclear on what basis the governance changes canvassed in the discussion paper are proposed to be made. There is not yet any clear path to negotiate and establish how a standards management operating model could exist between MBIE and Payments NZ.

Our proposal:

We propose the first priority should be on determining the model for standards management under the Bill. Any changes to manage perceived issues and institutional arrangements should only be considered once clarity exists on what the CPD model for standards management is, and what role (if any) Payments NZ's API Centre could play within that model.

We recommend the adoption of the recognition model for standards management (as explained below). Consideration of arrangements and any transitional matters should only be considered once the target model for standards management is established.

7. Establishing a role for standards management under the Bill

CPD needs to establish a mechanism for standards management and for working with private enterprise to achieve common objectives.

Situation:

The discussion paper suggests that the API Centre continues to play a key role in managing open banking standards. This aligns with the API Centre's directional intent.

There is not yet any clear mechanism or arrangements for how CPD-related standards management functions will be performed.

Issue:

The API Centre is a business unit of Payments NZ, which is a privately owned company. The API Centre's intent is to continue playing a lead role in the management and delivery of open banking, and MBIE's discussion paper indicates that API Centre standards will continue to play a key role.

Much of the discussion paper aims to enshrine current industry practices and API Centre standards into the regulated framework by 1 December 2025. However, no consideration has yet been given to:

- What the model is to be for managing standards – whether our proposed recognition model, or another approach yet to be determined.
- How Payments NZ's API Centre fits in relation to the chosen model for managing standards.
- How MBIE (as a public sector organisation) might potentially negotiate and enter into arrangements with Payments NZ for the utilisation of privately owned products (e.g. API Centre standards), services (running standards development, management and engagement) and tools (e.g. register, sandbox, standards hosting sites etc) provided to members (who pay fees for these services).
- The transitional costs and management of all of the above areas.

Our proposal:

We are of the view that the best outcomes will come from MBIE developing and entering into arrangements with Payments NZ, for the performance of standards management roles under CPD.

The end-state model for standards management under CPD needs to be defined. We consider our proposed recognition model provides the right solution. This is detailed in the next section.

We believe that our proposal for MBIE to be able to recognise standards bodies will reduce or remove the need for the reworking or duplication of standards setting across all potential CPD sectors (banking, energy etc), and thus reduce the demand on MBIE to deliver regulations in place of standards. This supports MBIE reaching its goal of designating the banking sector by 1 December 2025.

8. Our proposed recognition model for standards management ensures a sustainable CPD framework

Our proposed recognition model sets up the sustainable development and management of open banking standards, allowing the proposed regulation to leverage the strengths of the API Centre and industry expertise.

Situation:

Aotearoa has a unique opportunity to introduce a world-leading, hybrid CPD framework that strengthens open banking by leveraging and reinforcing industry investment, effort and momentum.

MBIE has stated that it intends the API Centre to remain responsible for implementing a wide range of functions in respect of open banking. These include hosting of standards, standards development, providing best practice guidelines, providing a sandbox for current and prospective accredited requestors to test software, and general promotion of open banking.⁷ MBIE proposes using the API Centre's standards as the basis for open banking implementation⁸.

Issue:

There is a general alignment of intent across industry, MBIE, the Minister of Commerce, and Payments NZ to leverage industry momentum as the springboard for the effective introduction of open banking. However, there is no clarity on how this will be accomplished, particularly with no legislative basis proposed for an organisation like the Payments NZ API Centre to perform a role for standards management.

Our proposal:

We propose the recognition model as the operating model for the ongoing development and management of industry standards – including technical, operational, and customer standards – which are all necessary to underpin a thriving open data ecosystem. This was a core recommendation in our submission to the Select Committee and we believe it needs serious consideration.

We refer to more information detailing the recognition model for standards management, and the benefits of this approach, at Appendix 2. This provides an initial starting point for how open banking standards might be delivered and managed under CPD.

9. Establishing the scope of standards management within the Bill

The API Centre is aligned with MBIE's indication that it is best placed to play a lead role in developing and managing standards. However, a more complete set of standards management functions needs to be recognised.

Situation:

The discussion paper references the API Centre continuing to be responsible for implementation of a range of open banking standards management functions, including hosting standards, standards development, and providing best practice guidelines.

⁷See MBIE discussion paper #200

⁸See MBIE discussion paper #39

Issue:

While the discussion paper provides a sound base, it does not cover all of the key aspects of the role of a standards body. There is a risk that regulators may not be aware of the full breadth of activities required to manage a living open data ecosystem.

Our proposal:

The Payments NZ API Centre confirms its intention and willingness to continue playing a leadership role in delivering open banking standards in Aotearoa, including performing these functions in the new regulatory context, via our proposed recognition model for standards management.

The API Centre would continue to be responsible for all matters in relation to standards management for the payments sector, in particular, all of the following matters:

- engaging with current and future participants to understand use case demand, feasibility, and viability of potential new functionality (networking and engagement);
- working with participants to agree and define priority functions that best support open banking outcomes that should be developed into standards (with roadmaps);
- managing the lifecycle of standards, from their prioritisation, development, approvals, publication, operational management, patching, deprecation, and eventual removal (standards development), including:
 - technical standards (such as API standards and security);
 - operational standards (such as standards for performance, monitoring, reporting, outage management, using the register, etc); and
 - customer standards (such as customer consent, consistent customer terminology and language, customer safety best practices, experience guidelines, and customer facing dashboards);
- providing support for the open banking ecosystem (membership services), including:
 - industry sandbox, register and trust framework, and supporting guidance on any open banking subject (operational support);
 - being responsible for ensuring that all standards management functions are appropriately operated (which includes hosting the standards and implementation support); and
 - being responsible for ensuring appropriately robust, open and transparent governance processes are in place and performed in relation to all of the above; and
- promotion, awareness and education of open banking.

We propose that the relationship between CPD and the Payments NZ API Centre performing the above functions be framed and accommodated within the recognition model for standards management.

We thank MBIE for the opportunity to share our experiences and expertise in leading the development and delivery of open banking to date. We look forward to working closely with MBIE in order to further build on industry's progress and momentum to successfully make a vibrant and innovative open banking ecosystem available to New Zealanders.



Steve Wiggins
Chief Executive, Payments NZ Limited

Appendix 1: Responses to consultation questions

Status quo and problem definition

1.

How do you expect the implementation and use of open banking to evolve in the absence of designation under the Bill? What degree of uptake do you expect?

There is significant industry momentum for open banking in 2024. Standards are being implemented now, and the next implementation plan is set. A comprehensive work program is underway to further advance open banking in Aotearoa New Zealand, and the API Centre's partnering project also aims to make it significantly easier and more cost efficient for Third Parties and API Providers to partner to deliver open banking services.

The Bill largely aims to reinforce and enshrine current industry plans and standards through regulation, at least initially. As such, over the short-medium term post-CPD, the impact on uptake largely depends on the design of the accreditation standards. While Payments NZ's partnering project and CPD open banking regulations are working to the same timeline, how well accreditation is delivered will be the main variable compared to the current situation.

Over the medium to longer term, we think a well-designed CPD with appropriate regulatory backstop may make a significant contribution to open banking's uptake and usage. However, care needs to be taken as a heavy-handed regulatory approach to implementing CPD may stall industry momentum, risking the opposite outcome.

2.

Do you have any comments on the problem definition? How significant are the risks of suboptimal development and uptake under the status quo?

The industry continues to make progress to further unlock and progress the open banking ecosystem in Aotearoa. This work is ongoing and includes work to address some of the challenges described in the paper.

We consider that some of the problem statements described in the paper need updating and do not accurately reflect the current state of progress:

- *“voluntary implementation of open banking may be too slow”*: Implementation is no longer voluntary. Mandatory implementation plans require bank implementation. Our updated second implementation plan has been issued on 2 October 2024. Implementation cadence has now moved to a more regular cycle. Following the completion of the first implementation (in May 2024 for Payments Initiation v2.1 and in November 2024 for Account Information v2.1) we will also review the process and apply lessons learned as a part of our continual improvement process.
- *“may fail to meet desirable use cases”*: Possible use cases are enabled by the functionality in API standards. Current standards provide the necessary and strong foundation for open banking. The API Centre is currently consulting stakeholders on priority functionality, based on the criteria of demand, versatility and impact. Without specific examples of unmet desirable use cases, it is difficult to speculate on whether MBIE sees this as an existing problem or a theoretical future issue.
- *“The conditions for accessing customer data and payments may be too restrictive and the costs imposed on third parties may be too high”*: Industry is actively focusing on addressing these issues over 2024-25, via the partnering project enabled by the Commerce Commission's authorisation granted in August 2024.

3.	<p>What specific objectives should the government be trying to achieve through a banking designation? What needs to happen to achieve these objectives?</p>
	<p>We note the strong linkage between the objective of “providing valuable services to a substantial proportion of banking customers” and the Commerce Commission’s recommendation of an all-of-Government approach to adopting payments enabled by open banking functionality.</p> <p>Government payments make up a materially significant proportion of all payments in Aotearoa. Government uptake of payments utilising open banking would both unlock benefits for Government and citizens and stimulate open banking adoption more widely.</p> <p>We propose that MBIE’s objectives in relation to a “substantial proportion of banking customers” should draw from the Commerce Commission’s recommendation, and proactively drive Government usage of open banking.</p> <p>The objective of “increasing a greater level of third party uptake” will depend heavily on the model and incentives on Third Parties to join directly (see Q16 for more on this). Care also needs to be taken that CPD does not create short-term disincentives for Third Parties to join or participate in the open banking ecosystem, pending clarity on the CPD model for standards management. Determining the projected counterfactual will be required in order to measure this.</p> <p>Objective b (providing valuable services to customers) should also reflect user adoption and usage, to mitigate the risk that prioritisation decisions are made without necessary evidence that the desired functionality will be genuinely valued by end users.</p> <p>In relation to the objective of incentivising further development and implementation of standards that support the most valuable use cases, our response to Q9 details the existing strong incentives. These have already delivered critical open banking standards to the market through minimum open banking implementation, and the API Centre intends to continue to set priority standards that will deliver versatility and impact and meet industry and consumer demand. There are a wide range of stakeholder perspectives and preferences, and the criteria of versatility, impact and demand allows for industry priorities to be set via a balanced and robust process. As such, we consider this objective is well-met already.</p>
4.	<p>Do you have any comments on the criteria that should be used to assess designation options?</p>
	<p>In addition to the criteria in the discussion document, designation should also:</p> <ol style="list-style-type: none"> 1. Consider the costs and benefits to current and future accredited requestors (recipients), as well as possible data holders; and 2. demonstrate the benefits of the designation to customers of data holders, before designating data or actions.
<p>The Scope of an open banking designation</p>	
5.	<p>Do you agree that the banks covered and timeframes should be based on the API Centre Minimum Open Banking Implementation Plan? Do you have any concerns about the specific implementation dates suggested?</p>
	<p>We agree with the coverage and timelines. These dates and deliverables match our own and have been carefully worked through by industry.</p> <p>Our concerns relate to the following:</p> <ol style="list-style-type: none"> 1. The API Centre regularly reviews the implementation plan and will likely be undertaking another review in 2025. If MBIE intends to take over this function, there is a need for coordination so that this is not duplicated. 2. The timeframes set out, based on the implementation plan, are achievable assuming the following conditions:

	<p>a. There are no deviations from the full suite of standards provided through the API Centre;</p> <p>b. MBIE forms an arrangement with the API Centre whereby the standards may be incorporated into law (wholly); and</p> <p>c. MBIE requires membership of the API Centre for all accredited requestors.</p> <p>Deviations from the suite of standards provided by the API Centre will stall the API Centre workplan on future open banking standards and require reworking for both API Providers and Third Parties. This would make adherence to these timeframes problematic.</p>
6.	Do you have any views on the costs and benefits of designating a wider range of deposit takers, beyond the five largest banks?
	We note that increasing coverage incentivises organisations who currently rely on impersonated access methods to migrate to a secure and standardised open banking ecosystem.
7.	Do you agree that, in the first instance, only requests by accredited requestors be designated? Do you have any comments on when and how direct requests by banking customers could be designated under the Bill?
	<p>Yes. In the first instance, only requests by accredited requestors should be designated.</p> <p>Careful assessment of the costs and benefits needs to be completed before designating direct requests by banking customers. We also note that most, if not all, regulated open banking regimes around the world do not regulate the provision of direct access. Notably, Australia backed away from the approach of providing direct access to customers. Deviating from global practices around direct access at an early stage of maturity would appear a risky move.</p> <p>Enabling direct access would require significant security issues to be resolved, or worse, a conscious lessening of controls. There is also a question of how that direct access would occur: would users write their own software, or use a command line tool or something else?</p> <p>Uncontrolled direct access puts both customers and accredited users at risk, and possibly banks as well, because of the lower level of security assurance. The current security model used requires that both banks and third parties can hold and protect secret credentials (private keys) using key vaults (or similar) that typical direct access users do not use.</p> <p>For individual customers, bank channels already provide direct access, so there is limited advantage to its availability at this stage. There are upcoming standards and frameworks (such as Digital Identity) that should be in place, widely used and well-proven prior to direct access being considered.</p>
8.	Do you have any comments on the customer data to be designated?
	<p>It is stated that the “designation must specify the data that designated banks will be required to provide through APIs”⁹. MBIE is proposing to set a relatively broad designation, with more specific information being specified by standards ¹⁰.</p> <p>We have a key point of clarification that we request MBIE to advise on. This is regarding the relationship between:</p> <ul style="list-style-type: none"> • designated persons; • CPD enforced standards implementation dates for designated persons; and • designated customer data. <p>We would like clarification as to which of the two scenarios MBIE intends to apply:</p>

⁹ See MBIE discussion paper #55

¹⁰ See MBIE discussion paper #60

Scenario 1: designated customer data defines what *must* be implemented by designated persons by the specified date. Under this scenario, the designated customer data, a designated person's implementation date, and the specific API Standard, should all be clear in the designation using the correct terminology to ensure a designation is unambiguous.

Scenario 2: designated customer data is a broad scope of customer data that a designated person *could* be required to implement, as/when that customer data is then specified by regulations and standards. Under this scenario, designation defines the outer boundary, or superset, of what might be implemented, and CPD regulations and standards then define the sub-set that must be implemented by designated persons by a specified time.

We seek this clarification as it is a fundamental matter, and impacts what should be captured in customer data designation (and payments designation, etc).

To illustrate the relevance of this clarification, we note that MBIE specifies designated persons (i.e. banks) and suggests that they implement v2.3 Account Information API standards versions (which include specifications for customer data) by dates that broadly align to the current API Centre Minimum Open Banking Implementation Plan. However, we note that the discussion paper's description of customer data is at variance with the description in the Account Information API's that is being implemented via the Minimum Open Banking Implementation Plan. How this variation is addressed depends on which scenario the CPD regulatory model aims to put forward.

To provide examples, the following variations are included in the discussion paper's proposed scope of designation of customer data, but are not included in the Account Information API endpoints that must be implemented via the Minimum Open Banking Implementation Plan:

- “customer eligibility for services and offers” (presumably this is intended to align with the v2.3 optional ‘Offers’ endpoint or it may be referring to detailed eligibility rules associated with product data);
- “payment obligations” (presumably this is intended to align with the v2.3 optional ‘standing orders’ endpoint);
- “authorisations for transactions given in respect of accounts, such as automatic payments and direct debits” (presumably this is intended to align with the v2.3 optional ‘scheduled payments’ endpoint as well as the optional ‘direct debits’ endpoint);
- “payees” (presumably this is intended to align with the v2.3 optional ‘beneficiaries’ endpoint); and
- “information about offers available to the customer in respect of the account, such as balance transfers and promotional interest rates” (presumably this is intended to align with the v2.3 optional ‘Offers’ endpoint or it may be referring to detailed eligibility rules associated with product data).

If scenario #1 above is MBIE's approach, it will always be important that designated customer data aligns to the scope of the standards that are to be implemented by designated persons. Applying this to the example suggested by MBIE that designated banks implement v2.3 of API Centre Account Information API standards by 1 December 2025 (which is consistent with the API Centre Minimum Open Banking Implementation Plan), the initial scope of designated customer data will need to align with the scope of what is being implemented through v2.3 Account Information. This means that the customer data in the discussion paper that is summarised in the above bullet points must not be included in the scope of customer data designation. We further note that generally, under this scenario, new designations will have to iteratively move forward in unison with the scope of what is or needs to be in standards and is to be implemented.

In contrast, if scenario #2 above is the approach, designated customer data may not necessarily be mandated for implementation. We note that under this scenario, regulations may take a long-term view for the designation of customer data (i.e. and could include the above bullet points in the

scope of customer designation), leaving decisions on scope, approach, implementation and standards delivery to be determined via CPD regulations and standards.

On balance, our preliminary recommendation is that scenario #2 be adopted. However, the approach taken here will be a key feature of what the model for CPD standards management will need to support. Further in-depth consideration will likely be needed as a part of developing that standards management model (and we propose the recognition model for standards management as a good starting point).

Under either scenario, the initial scope of customer data that is being implemented by December 2025 should directly and accurately align to the API Centre Account Information API v2.3 (subject to our proposals in section 7 of this document), as this is already locked in via the industry agreed implementation plan published by the API Centre in October 2024. Any variations between this and what CPD might require to be implemented in December 2025 would directly impact the scope of what is implemented, cause delays and add significant costs.

In addition, the words used to describe the proposed designation of customer data are vague and are inconsistent with established open banking terminology in Aotearoa. MBIE's definition of customer data is ambiguous and could mean different things, and there is no clarity as to how they match the API standards. To illustrate this, in the bracketed content on the above bullet points, we describe our best guess as to what the discussion paper's proposed scope of customer data designation might mean in practice. A lack of clarity on defining customer data designation risks creating uncertainty and inconsistent interpretation of what exactly is being designated.

Lastly, we note that the reasoning behind this response will equally apply to payment actions and any potential product data.

9.

Do you have any comments on whether product data should be designated? What product data should be included? When should the product data designation come into force?

Designating product data has many implications and strategic consequences, despite the apparent simplicity of including it in designation. Products are not inherently standardised and, as such, standardised data about products is limited.

MBIE discusses whether product data should be included in the scope of designation. Standards would need to be developed and implemented before any designation for product data could come into force. If product data is designated, MBIE suggests that it would be six months after the proposed dates for customer data and actions¹¹. The paper does not put forward a position and seeks feedback.

While it is not fully clear, MBIE suggests the proposed date for product data, if progressed, would be 1 May 2026 for the largest four retail banks (being 6 months after their designation date of 1 December 2025). For this to be achievable, the API Centre would need to begin work on a product standard, which would displace other activities on the current workplan.

The API Centre engages extensively with our stakeholders on a multitude of potential functional standards that could be developed. The API Centre's work plan includes the development of a new standards development roadmap, which is due to commence in late 2024. The roadmap recognises that we cannot do everything all at once and prioritisation is essential. The prioritisation criteria focus on a potential standards candidate's attributes, namely, *high demand*, *versatility* and *impact*.

Product data is one potential candidate that has been included in previous lists of potential functional standards. Past assessments consistently registered very low industry demand for product data API standards, and as such it has not been prioritised to date. The impending industry process later this year will determine whether this remains the case.

The discussion paper presents a consideration of product data in isolation, rather than considering the relative demand, versatility and impact of product APIs compared to other standards

¹¹ See MBIE discussion paper #68

candidates. As such, the consultation question has a narrow binary view, framed simply as to whether or not product data should be designated.

The Commerce Commission's market study recommendations included a view that new functional API standards should be developed focusing on retail payments, as a replacement or alternative to Eftpos.

To date, there is no clear view from regulators on their collective priorities, in particular whether they want to see:

- CPD enforcing the development of product APIs to support product comparison;
- designation of the interbank payment network enforcing the development of APIs requiring retail payment scenarios to be supported, such as alternatives to Eftpos; or
- industry being allowed to determine and prioritise standardised API functionality, which from our point of view, would be most likely to provide the greatest *versatility* and *utility* to underpin a fully operational and impactful open banking ecosystem, with tried and tested commercially viable use cases.

These bullet points highlight the strategic importance behind how the API Centre determines the prioritisation of API functional standards.

We also note that if the development of product APIs to support product comparison were mandated, this would carry an opportunity cost, where other functionality with higher demand, versatility and impact is deferred or not progressed.

MBIE acknowledges that should it mandate a product data API, they suggest it could be designated (and presumably implemented and live) from 1 May 2026. We do not consider it appropriate or wise to indicate any dates like this, since:

- the date when it will be certain that the product API will be designated is not yet known;
- the legislative and regulatory basis to designate API standards has not yet been finalised;
- the estimated time for standards development processes (with the usual extensive consultation and approvals) has not been assessed; and
- the lead-in time for data holders to implement changes to their systems has not been evaluated.

The reference to an additional 6 months implies that MBIE sees the standard being developed within that timeframe. Delivering a new standard in 2025 for implementation in 2026 will come at a high opportunity cost, and we do not believe this is realistic or in the best interests of the objectives in the Bill or customers. The process involves not just the time to develop the standard itself but consultation with standards users on the proposed standard, completing the standards approval process, and taking banks' own planning and implementation requirements into account.

In summary, we propose that the question of the implementation of new product data API standards be deferred, and not included in the initial designation. The first and main priority should be to establish the structure of the new regime, in particular using the recognition model for standards management and using the standards that have already been developed.

Importantly, we believe the API Centre should retain the ability to set the standards prioritisation roadmap with input, as necessary, from stakeholders.

If required, the API Centre could commit to providing a full assessment of the demand, versatility and impact of the potential for product API standards (relative to other standards candidates or areas of regulatory interest), which can be used to inform future decisions.

We wish to stress that if a developed API standard is low in demand, impact or versatility in the use cases it supports, there is a very high cost as it will likely experience very low uptake and usage. There would be a low return on the investment made to develop and implement that standard, along with the opportunity cost of higher-priority standards not developed.

10.	Do you have any comments on designating payments under the Bill? Should other actions be designated? If so, when?
	<p>Designating payments should occur and align to existing API Payment Initiation standards. No other actions should be designated at this stage.</p> <p>MBIE proposes “detailed rules for open banking” in relation to what a customer’s payment consent must state. We note that MBIE’s description of what an express payment consent should be is not consistent with established industry best practice and standards for Payment Initiation.</p> <p>If MBIE desires an arrangement whereby they can leverage the API Centre’s payments initiation standards, such arrangement should ensure that all standards published by the API Centre and mandated for use in conjunction with a technical standard are adopted – including operational, security, and customer standards.</p> <p>There should be no need to discuss or consult on features that already reside inside a standard, or standards that are designed for use in conjunction with a technical standard, including customer consent and security standards. The action of MBIE consulting on detailed matters undermines the certainty that exists in a current standard, creates confusion and unnecessarily relitigates settled issues.</p> <p>Arrangements should be established to strengthen the linkages between the API Centre’s standards, its functions, and our recommended recognition model for standards management.</p> <p>There remains considerable uncertainty in relation to the roles that the Commerce Commission and MBIE will play in relation to open banking payments. Both agencies have proposed overlapping considerations with respect to open banking payments. We anticipate, and encourage, the formation of a unified view with respect to regulatory roles relating to open banking payments.</p>
The benefits, costs and risks of an open banking designation	
11.	Do you agree with our assessment of how the designation will affect the interests of customers (other than in relation to security, privacy and confidentiality of customer data)? Is anything missing? For businesses: What specific applications and benefits are you aware of that are likely to be enabled by the designation? What is the likely scale of these benefits, and over what timeframe will they occur?
	<p>Initially, CPD aims to align with existing API Standards and the Minimum Open Banking Implementation Plan. These standards have been designed to provide the foundational capabilities necessary to form an open banking ecosystem. The standards aim to provide high utility functions that are feasible and well designed, including ensuring the security, privacy and confidentiality of customer data. They also met high demand use cases that can provide benefits to businesses. As the designation aligns to existing standards, we do believe it will support the interests of customers and provide benefits to businesses.</p> <p>We support a well-designed designation of the banking sector. We believe this should, if done well, provide material benefits for years to come. Assessing the scale of these benefits is challenging as there remain many unknowns to work through, which is a theme highlighted by this submission.</p> <p>The customer interests and business benefits that could arise from designation are closely correlated to the functionality enabled, and the protections provided, by the standards. Please refer to our response to Q9 for views in relation to the functionality that standards could support into the future.</p>
12.	Do you agree with our assessment of the costs and benefits to banks from designation under the Bill (other than those relating to security, privacy or confidentiality)? Is anything missing? For banks: Would you be able to quantify the potential additional costs to your organisation associated with designation under the Bill? i.e. that would not be borne under the Minimum Open Banking Implementation Plan.

	Any deviation from the <u>whole</u> implementation of API Centre standards will place additional cost on both banks and the API Centre as well as posing risks to timeframes for open banking delivery.
13.	Do you agree that the designation will promote the implementation of secure, standardised, and efficient regulated data services?
	<p>We conditionally agree, subject to accredited recipients being required to become members of a standards body.</p> <p>Without this, there may be a short-term marginal gain from regulation reinforcing what the four largest banks have already implemented, but it would ultimately set the API Centre up to fail and may result in withdrawal of its services from the market. In that eventuality, the API Centre future role in supporting secure, standardised and efficient services would be at serious risk.</p> <p>If there is no arrangement with the API Centre for the use of its suite of standards, the proposed designation is lacking any visibility in respect of the security, customer, operational or API standards that data holders must deliver.</p>
14.	Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity of customer data and product data?
	<p>We believe that so long as CPD aligns to and leverages the expertise, processes and standards of the API Centre, then security, privacy, and confidentiality matters will be appropriately managed and risks mitigated. These are areas where the API Centre, supported by subject matter experts from our standards users, has invested significant time and resource.</p> <p>We do not yet support product data being in the scope of CPD at this stage. Refer to our response to Q9 above for more on this issue.</p>
15.	Are there any risks from the designation to intellectual property rights in relation to customer data or product data?
	<p>Not in relation to customer and product data.</p> <p>However, we note that the API Centre, a business unit of a private company (Payments NZ), has made a significant financial investment in co-developing standards for open banking. These standards are privately owned and available through paid membership of the API Centre. Intellectual property issues are relevant if MBIE intends to incorporate these standards into CPD without first entering into and agreeing appropriate arrangements with Payments NZ.</p>
Accreditation criteria – what specific criteria should business need to meet before they can become accredited to make requests on behalf of consumers?	
16.	Do you have any insights into how many businesses would wish to seek accreditation, as opposed to using an accredited intermediary to request banking data? For businesses: How likely are you to seek accreditation? What would make you more or less likely to apply?
	<p>One key determinant of this is the design of the CPD model, and whether it is easier and more cost-effective for a business to use the services of an accredited requestor's data intermediary or payments gateway services, rather than invest in joining the regulated CPD regime as an accredited requestor and connecting directly with all data holders. Until this model is settled, any estimates will have a high margin of error.</p> <p>Our experience working with third party fintechs is that some will always prefer a direct connection to bank APIs, while others will always prefer an intermediary service. Regulation should take care not to skew this towards one access method over another.</p>
17.	Do you agree that directors and senior managers of accredited requestors should be subject to a fit and proper person test? Do you have any comments on the advantages or disadvantages of this test, or other options?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.

18.	Do you agree that requestors whose directors and senior managers have already met the ‘fit and proper’ licensing or certification test by the Reserve Bank, Financial Markets Authority or Commerce Commission should be deemed to meet this requirement without further assessment?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.
19.	Do you consider that, in the absence of insurance or guarantee requirements, there is a significant risk of banks or customers not being fully compensated for any loss that might reasonably be expected to arise from an accredited requestor breaching its obligations?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.
20.	Do you have any comments on the availability and cost of professional indemnity insurance and/or cyber insurance, and how this may impact on the ability of prospective requestors to participate in this regime?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.
21.	Do you agree that a principles-based approach similar to the Australian CDR rules is an appropriate insurance measure?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.
22.	Do you agree that accredited requestors in open banking should be required to be a member of a financial services disputes resolution scheme?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.
23.	Do you consider that information security requirements should form part of accreditation?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.
24.	Do you have any comments on the level of prescription or specific requirements that should apply to information security? For businesses: What information security standards and certifications are available to firms in New Zealand, and what is the approximate cost of obtaining them?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.
25.	Do you agree that additional criteria of accreditation be the applicant demonstrate compliance with its policies around customer data, product data and action initiation and with the Act?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.
26.	Do you consider any additional accreditation criteria are necessary?
	The API Centre does not have any comments on this matter until after we have delivered our partnering project.

Fees – what restrictions should there be on fees for providing customer data or initiating payments?

27.	What would be the impact of requests under the Bill being free, for banking?
	<p>The API Centre advocates for a low-cost approach rather than free access to requests. Our rationale is as follows:</p> <ul style="list-style-type: none">• Investment: Free access can result in insufficient funding for infrastructure, maintenance, and operational costs, leading to a degraded service quality over time. Low-cost access allows for reasonable maintenance costs to be recouped.• Incentive to innovate: Without financial incentives, banks may not invest in new technologies or service improvements.• Avoiding the “free rider” problem: Under a free access model, third-party innovators (ranging from small fintechs to multinational Big-Tech companies) can profit from bank infrastructure without contributing to its upkeep, effectively making banks subsidise these third parties. Low-cost access avoids this issue.• Sustainability: A low-cost model ensures that banks can maintain and improve their services sustainably over the long term.• Commercial accountability: A low-cost, paid service provides a commercial avenue (beyond just regulatory compliance) for services to be held accountable to appropriate levels. <p>We note that in other jurisdictions, particularly the EU and UK, public policy discourse is moving towards the merits of low-cost, rather than free, access.</p> <p>Eftpos in Aotearoa is a useful case study. Eftpos initially provided significant benefits as an alternative to cash. However, the free business model eventually led to a lack of investment in infrastructure and product development, leading to a comparatively weaker product proposition and reducing usage, thus demonstrating the downsides of free access for ongoing innovation.</p> <p>Customers can currently access much of their data in a raw form for free, via a download from their internet banking. By contrast, streamlined, secure, and standardised interfaces that are resilient and performant have value which should be reflected in pricing.</p>
28.	If requests under the Bill were not free, what limits or restrictions should be placed on charging fees? Do you have any comments on the costs and benefits of the various options?
	<p>A pricing model needs careful design. Great care needs to be taken not to incentivise unintended behaviours that could put pressure on the performance and health of the API ecosystem. For example, using tiers or caps on API calls can result in operational behaviours and usage patterns that would not naturally occur.</p> <p>We recommend that MBIE actively monitors pricing, collecting regular information and ensuring it has appropriate powers to intervene if required. We also recommend that fair pricing principles are developed, along with a standardised pricing structure. A requirement that pricing is transparent (at least to accredited requestors) should be placed on designated data holders in the first instance.</p>
The detailed rules for open banking	
29.	Do you agree with the proposals to ensure that consents given to accredited requestors are sufficiently informed? Are there any other obligations that should apply to ensure that consents are express and informed?
	<p>We agree, but the question of whether consents should be sufficiently informed is a very low bar, and MBIE will struggle to find anyone who disagrees with this intention. The API Centre suggests there are other more relevant aspects to focus on.</p> <p>If regulation aims to set best practices, we highlight this particularly powerful definition, <u>modified</u> from the EU-U.S. Data Privacy Framework:</p>

An organization must offer individuals the opportunity to choose (i.e., opt in) whether their information is (i) to be disclosed to a third party, (ii) the purpose for which it may be used, (iii) and whether their information may be used for a purpose that is materially different from the purpose(s) for which it was originally collected or subsequently authorized by the individuals. Individuals must be provided with clear, conspicuous, and readily available mechanisms to exercise choice.¹²

Any organisation, public or private, that produces API standards for access to designated data or actions should be required to publish the customer standards. Customer standards should specify, in the relevant terminology, detailed requirements for disclosure, business rules, and any such behaviours with regards to customers' data sharing or action authorisations.

Standards for customer consent for open banking data sharing purposes are already defined by the API Centre's Ts & Cs. All technical standards will have relevant accompanying customer standards.

These customer standards (currently published within the API Centre's Ts & Cs) are frequently updated to ensure they remain fit for purpose, and a recent update specifically focused on customer consent disclosures when an intermediary is engaged.

The API Centre standards require that customer consent must be freely given, current, and able to be revoked by the customer.

The discussion paper considers automatic expiry of data sharing consents after 12 months, and proposes that data sharing consents should not expire, but that accredited requestors should notify customers of certain matters at least every 12 months.¹³ API Centre Account Information standards specify that the customer must specify the duration of a consent, and that consents do not need to automatically expire after 12 months by default.

While MBIE's view of ongoing consents not automatically expiring (e.g. say after 12 months) is consistent with API Centre Account Information standards, the fact that MBIE has this issue under active consideration is problematic. Industry's position and approach in the standards has been in place and stable for some years. If a different position eventuated, this would directly contradict the Account Information API standards that is being actively implemented right now (v2.1 by 30 November 2024 for the four largest banks).

Consented data sharing methods should always make clear whether or not data sharing is being requested for purposes beyond that which is strictly necessary for the provision of a service. This should be part and parcel of the normal process of a customer providing their consent.

Reminders and notifications also present avenues for fraud, and obligations where all participants must notify customers for a given circumstance should be carefully thought through.

We stress that the costs of not accepting our guidance on consents above are very high. Any variation to current or implemented standards will result in rework, additional costs, and has the risk of lowering the bar for informed customer consent by creating a situation where regulation falls behind industry best practices. In the interests of avoiding duplication of costs and effort, we suggest that existing industry practices be adopted, rather than undertaking policy work on already settled matters. The API Centre would be happy to brief MBIE on the details of industry customer consenting practices and obligations.

30. Should customers be able to opt out of specific uses of their data that are not necessary to provide the service? Do you have any comments on the advantages and disadvantages of this?

No. This is contradictory to industry best practices. Forcing customers to opt out, instead of offering them the opportunity to opt in, is a 'dark pattern', typically used to take advantage of customers.

¹² <https://www.dataprivacyframework.gov/s/article/2-CHOICE-dpf?tabset-35584=2>

¹³ See MBIE discussion paper #139

	Any organisation may, at times, desire to use customer data for reasons that are not strictly required to run the service, such as reporting, marketing, or using anonymous data to train internal ‘models’. Customers must have the option to opt-in to additional uses for their data, when that purpose is extraneous and not strictly necessary to providing the service.
31.	Should customers have the ability to set an expiry on ongoing consents? Do you have any comments on the advantages and disadvantages of this?
	<p>Yes. The customer must be in full control of their consent. The duration of the customer’s consent is one of the key pillars managed in the API Centre’s standards, guidelines and terms and conditions.</p> <p>Managing this is already well embedded in industry practice. We suggest that MBIE leverage established industry practice in this area in order to avoid substantial and unnecessary cost duplication.</p> <p>For the avoidance of doubt, the expiry must be set by the customer, not in regulations or standards. Each use case is different and accredited requestors must not access or use data for longer than is necessary to provide the given service to the customer.</p>
32.	Do you agree with the proposals in this paper to help ensure that consents given to accredited requestors acting as intermediaries are sufficiently informed? Are there any other obligations that should apply to ensure that consents given to intermediaries are express and informed?
	While MBIE’s paper is broadly heading in the same direction as established industry practice, it is not exactly aligned. Managing this is already well embedded in industry practice. It is important that MBIE leverages established industry practice in order to avoid substantial and unnecessary duplication of costs.
33.	Do you agree with the proposals to ensure that payment authorisations given to accredited requestors are sufficiently informed? Are there any other obligations that should apply to ensure that payment consents are express and informed? Should there be any other limitations on merchants or other unaccredited persons collecting authorisations, or instructing payments?
	While MBIE’s paper is broadly heading in the same direction as established industry practice, it is not exactly aligned. Managing this is already well embedded in industry practice. It is important that MBIE leverages established industry practice in order to avoid substantial and unnecessary duplication of costs.
34.	Do you agree with the proposals in this paper for customer dashboards for viewing or withdrawing consent?
	There are already obligations on all API Centre standards users to make all current consents relating to a customer available to that customer on request, and to allow the customer to revoke any consent. Accordingly, the proposal in MBIE’s paper only serves to revalidate current industry practice.
Joint customers	
35.	Should there be any exceptions to joint customers being able to access account information, other than those provided by clause 16 of the Bill? What would the practical impact of additional exceptions be on the operation of open banking?
	<p>Our submission to the Select Committee recommended that secondary users should be entirely removed from the Bill. If they were not in the Bill, there would not be a need to consider regulations and standards. Our recommendation was made for the benefit of customers, and to avoid unnecessary complexity and adverse impacts.</p> <p>We submitted that the Bill puts an obligation on the data holder to ensure that any regulated data service request – such as data sharing or a payment action – must be authorised by a customer with the appropriate authority to act. We also submitted that the data holder is responsible for managing the customer’s authority to access and manage their accounts (and this should not be prescribed by regulation), and that this is the extent of what needs to be done.</p>

	<p>This reflects the importance of not undermining the existing authority customers have with their data holders for account access, including for individuals, joint customers, and people with operating authorities for legal entities such as limited companies.</p> <p>We propose that joint accounts or secondary user be removed from the Bill. Further, we also propose that there is no need to establish regulations on these subjects, as they can be managed at a standards level, if necessary.</p>
36.	<p>Are regulations needed to deal with joint customers making payments, or are the default provisions of the Bill sufficient? What would the practical impact of the default provisions of the Bill on the operation of open banking?</p>
	<p>As argued in our previous submission on the Bill, we believe joint customers should not be in the Bill at all. Any issue regarding joint customers can be effectively managed at the standards level, if needed at all, rather than being reflected in regulations. Please refer to our submission on the Bill for more detail on this matter.</p>
Secondary users	
37.	<p>Are there any issues with designating authorised signatories on a customer’s account as secondary users? What else should regulations provide for secondary users?</p>
	<p>For the benefit of customers, avoiding unnecessary complexity and adverse impacts, the concept of ‘secondary users’ should be removed entirely from the Bill. Please refer to Q36 above.</p>
Payment limits	
38.	<p>How should payment limits be set?</p>
	<p>The API Centre’s work plan for 2024/25 already includes an initiative investigating payment limits. As we do not want to predetermine any outcome, we do not wish to provide any views on this yet.</p> <p>We also request that MBIE does not take any further action on this subject until after our work is completed. The API Centre is happy to involve MBIE in this initiative, and we will of course share our conclusions.</p>
Remediation of unauthorised payment	
39.	<p>Do you agree that accredited requestors should remediate banks for unauthorised payments that they request? Are there any other steps that should be required to be taken where unauthorised payments occur?</p>
	<p>Yes. In practice, a customer may complain to either the data holder or the accredited requestor in the first instance and both parties will have processes for handling customer complaints. Such processes, and the bilateral agreements between parties, may allow for the party receiving the complaint to reimburse the customer for their losses and, subsequently, claim such amounts from the other party (if they believe the other party was at fault). In summary, it is important that:</p> <ul style="list-style-type: none"> • the customer is reimbursed for losses that may arise from unauthorised payments, • the party who is at fault is ultimately liable for such losses, • there is a dispute resolution process for inter-party disputes, • such inter-party disputes do not delay the customer being reimbursed.
Content of the register and on-boarding of accredited requestors	
40.	<p>What functionality should the register have? Is certain functionality critical on commencement of the designation, or could functionality be added later?</p>
	<p>The register should be functioning on day one. Using the API Centre’s existing register is efficient and reduces overall system costs. Arrangements should be established with Payments NZ to formalise this role.</p>

The discussion paper references the API Centre operating its register in order to meet new obligations for the banking sector. It is also suggested that the API Centre should continue to operate its standards sandbox. This is just one of a range of other operational matters that are needed to support the establishment of a well-functioning open banking ecosystem.

After assessing the current functionality of the API Centre’s register against the anticipated functional requirements of a register under the new law, the API Centre can confirm that it can currently meet most of the functions that are required, subject to some adjustments. Initial assessments of these adjustments are that they are achievable, with appropriate cost and effort.¹⁴

As such, we can endorse the suggestion in principle that the API Centre delivers the register¹⁵, and that to minimise costs, the register should “contain minimal additional information beyond that currently available through the existing API Centre register, and that this information be private to participants.”¹⁶

It makes sense from a total open banking ecosystem cost perspective for the API Centre to provision, operate and manage the register.

However, any necessary changes to the register to meet legislative requirements would need to be appropriately managed and implemented (i.e. via a project) to establish certainty of compliance and ensure appropriate operational performance and security.

The API Centre would require certainty that it would operate the register for a reasonable period of time before it is worth investing in fully performing all of the functions of providing the register.

It is not clear what arrangements would need to be put in place between MBIE and the API Centre when it comes to operating the register, both initially and on an ongoing basis. Arrangements for the API Centre to provide and operate the register and manage its CPD compliance should fall within the bounds of the recognition model for standards management.

If suitable arrangements are not reached, on a timely basis, for the API Centre to operate the register, there will be higher cost impacts on MBIE, the API Centre and industry. MBIE would then have to develop and operate its own register. The purpose and capabilities of the API Centre’s register would become tenuous and may result in it being closed down, negating substantial investment by industry.

41. What additional information needs to be held by the register to support this functionality? Should this information be publicly available, or only available to participants?

This largely depends on what public policy outcomes and needs MBIE wishes the register to perform. At least some basic information should be made publicly available through some means. If the API Centre’s register is used, any change requirements needed by CPD will need to be defined and agreed before any resulting technical changes can be made.

42. Is it necessary for regulations to include express obligations relating to on-boarding of accredited requestors? If so, what should these obligations be?

This largely depends on what public policy outcomes and needs MBIE wishes the register to perform. Depending on the nature of requirements, many on-boarding obligations could potentially be managed by operational standards as opposed to regulations. If the API Centre’s register is used, any change requirements needed by CPD will have to be defined and agreed before any resulting technical changes can be made.

Content of policies relating to customer data and action initiation

¹⁴The API Centre can provide MBIE separately with details of its initial change assessment.

¹⁵See MBIE’s discussion paper #201

¹⁶See MBIE’s discussion paper #176

43.	Do you agree with the proposed content of accredited requestor customer data policies? Is there anything else that should be required to be included?
	We refer you to page 23 of our submission ¹⁷ on the CPD Bill for our general views on this matter.
Standards for open banking	
44.	Do you agree with the proposed standards? Should any additional standards be prescribed?
	Please refer to Q9 (regarding product data) where we discuss the industry prioritisation of standards that are in demand, and have high impact and utility. A combined MBIE and Commerce Commission view on prioritisation of functionality, particularly in relation to payments, would be informative.
45.	When should version 3.0 of the API Centre standards become mandatory?
	<p>The API Centre has recently published its updated minimum open banking implementation plan for v2.3 of the standards. The process to set this implementation plan is robust and assesses a wide range of factors. The API Centre will, again, review the milestones on the implementation plan in 2025 and consider if new milestones are required.</p> <p>Until appropriate arrangements are in place within the API Centre, such as the recognition model for standards management, we do not consider MBIE needs to consider implementation timelines for API Centre standards.</p>
46.	If product data were included in the designation, what standards should be adopted or developed for product data?
	<p>As noted in our response to Q9, product data should not be included at this stage.</p> <p>Industry, via the API Centre, should retain the ability, at least in the medium term, to set the standards prioritisation roadmap. The API Centre will complete its assessment, with industry, on the prioritisation of the next API standards that should be developed. This will ensure the next API standard is in demand, versatile and has high impact.</p> <p>If necessary, the CPD framework and/or the Commerce Commission (if the designation of the interbank payment network proceeds) could provide input from a public policy perspective.</p> <p>Any technical standard that the API Centre develops will have compatible operational, performance, security and customer standards before the technical standard is published.</p>
47.	Do you have any comments on performance standards that should apply?
	<p>The discussion paper acknowledges Payments NZ is currently working on a performance standard¹⁸ and states the preference for this standard to be complied with under the Bill, but signals it is willing to set this standard by regulation if Payments NZ does not finalise the standard¹⁹.</p> <p>The paper then considers specific metrics and technical requirements and seeks comments on what performance standards should apply, presumably as a backup in case Payments NZ's standard is not finalised.</p> <p>It is our view that MBIE should not be consulting on the specific technical measurements of performance standards. MBIE has comparatively less specialist knowledge or experience that is required for assessing the appropriateness and specifics of performance standards for this sector. Further, seeking one-off written feedback is not a sufficient method to develop these, or any, standards. This is an example of an area where subject matter experts need to be involved through a robust process.</p>

¹⁷ See page 23 of our submission here: <https://www.paymentsnz.co.nz/resources/articles/submission-on-the-customer-and-product-data-bill-2024/>

¹⁸ See MBIE discussion paper #190

¹⁹ See MBIE discussion paper #191

	<p>We note that the API Centre’s standards have already undertaken extensive consultations through the course of their standards development process. There is no value in duplicating consultative efforts as this adds cost and creates uncertainty. Further, we note that the API Centre’s work plan for 2024/25 includes revising and extending the set of performance standards. The draft standards are currently well-advanced through the API Centre’s standards development process. The regulations that MBIE is consulting on in its discussion paper will be overtaken by this work.</p> <p>The API Centre proposes that the recognition model for standards management is deployed, where all standards are developed, assessed and consulted on through an appropriate and robust standards development process.</p> <p>We do not believe that MBIE needs to give further consideration to any performance, availability or throughput standards. Instead, MBIE should set outcome expectations when appropriate standards need to be in place and operational in time to support the Bill’s outcomes. We would be happy to involve or brief MBIE on the scope of the current work and share its final outputs.</p>
48.	How can MBIE most effectively monitor performance?
	<p>The API Centre will be monitoring performance when its performance standard goes live. When available, the API Centre intends to publish ecosystem health reporting publicly. Performance monitoring will evolve as the ecosystem develops.</p> <p>We suggest that MBIE considers what public policy outcomes it would like to achieve with CPD. Through the recognition model, the API Centre, with industry and MBIE, will develop metrics and a reporting framework to monitor performance.</p>
49.	Are existing institutional arrangements with the API Centre fit for purpose, to achieve desired outcomes? If not, what changes should be considered? How should the approach change over time as other sectors are designated?
	Please refer to our covering submission.

Appendix 2: The API Centre’s proposed recognition model for CPD standards management

Introduction

The “recognition model” refers to our recommended operating model for ongoing development and management of industry standards – including technical, operational, and customer standards – necessary to underpin a thriving open data ecosystem, founded on the customer right to access, and benefit, from sharing their data with organisations they choose (aka the Customer and Product Data Bill/CDR regime).

The model creates a pathway for organisations, public or private, across multiple sectors, to develop and manage industry standards that are recognised and incorporated by regulators under the Customer and Product Data Bill (CPD). The model utilises the comparative strengths of both regulation and industry to complement and reinforce the delivery of a customer data right in designated sectors. This model is particularly compelling when CPD aims to harness the resources and expertise of an existing industry standards body, and leverage current and future industry standards.

This model crystallised in October 2023 when CFPB (USA) proposed their Financial Data Rights rule. We have monitored the progress of rule development in the States and evaluated it in the context of Aotearoa New Zealand, allowing us to produce the recommendations in this paper.

It’s worth noting that the rationale for this approach, provided by CFPB, resonates here in Aotearoa. Their proposal included the following statement:

“Industry standard-setting bodies that operate in a fair, open, and inclusive manner have a critical role to play in ensuring a safe, secure, reliable, and competitive data access framework.”

“Comprehensive and detailed technical standards mandated by ... regulation could not address the full range of technical issues in the open banking system in a manner that keeps pace with changes in the market and technology. A rule with very granular coding and data requirements risks becoming obsolete almost immediately, ... or worse, the rule would lock in 2023 technology, and associated business practices, potentially for decades.

To help support and maintain a data access framework that enables consumer access in a consistently safe, reliable, and secure manner across the market, industry standards must be widely adopted. To meaningfully scale, standards must reflect a diverse set of interests, increasing the likelihood that market participants will adopt the standards and maintain their integrity. Conversely, if standards are controlled by dominant incumbents or intermediaries, they may enable rent-extraction and cost increases for smaller participants. Fair, open, and inclusive standard-setting bodies are vital to promote standards that can support a data access system that works for consumers, rather than the interests of dominant firms.”

Glossary

- **Recognised Standards Body** means an organisation, public or private, who applied and has been granted recognition status by the Chief Executive for the purposes of standards management.
- **Qualifying Technical Standards** are standards that enable the provision of designated data or actions and have been published by a recognised standards body.
- **Compliance schedule** defines the minimum technical standards that must be implemented by designated persons, by a given date.
- **Operational minimums** are the minimum non-technical standards, i.e. customer and/or operational standards, that must be implemented alongside any provision of, or access to, a given technical standard.

Summary of the recognition model

- Like accreditation, but for standards organisations.
- Allows MBIE's Chief Executive to grant recognition status to an applicant if they meet prescribed criteria / requirements.
- Recognition might be granted to public or private organisations, with or without conditions, for a period of time, for a given sector(s).
- Regulation should set out governance attributes, process and scope requirements in the context of CDR related activities.
- Regulations should determine the process for an organisation to apply for recognition status, the Chief Executive decision making criteria, the process for renewing its status, and termination, withdrawal and suspension.
- A recognised body may deliver anything that the Bill says may be delivered in standards.
- Such standards would qualify so that designated data holders are compliant with CPD Bill so long as they are conforming to qualifying technical standards.
- Regulations should require Accredited Requestors to become a registered member of a recognised standards management body in the sector they are accredited for.

Design of the recognition model

Designation instrument

The designation instrument sets out:

- Classes of designated data (and/or actions)
- Designated data holders
- Classes of accreditation
- [recommended addition to the Bill] Classes of customers (i.e. personal, joint and non-personal customers - see paragraph 58 of MBIE's discussion paper).

Designation regulations

Data holders' electronic systems **must** make designated data (or actions) available in a format that is set out in a qualifying technical standard by the dates set in the compliance schedule.

Data holders **must** comply with operational minimums specified by the recognised standards body for use with the minimum qualifying technical standard.

Noting that classes of data (and actions) in the designation may be broader than the data provided for in qualifying technical standards, regulations will set out a compliance schedule, including:

- the minimum qualifying technical standard version, as offered by a recognised standards body
- the date for designated data holders to be compliant, and
- the accreditation classes

Recognition of standards bodies

A person may apply to the Chief Executive to be recognised as a recognised standards body.

Scope of services

Recognised standards bodies must provide for everything the Bill says must be provided for by standards and may provide for anything the Bill says may be provided for by standards.

For the avoidance of doubt, secondary regulation may not provide for anything that a recognised standards body must or may provide for.

How an application is made

The application must:

- provide key contact information
- provide the applicant's New Zealand Business Number;
- provide the sector(s) for which the applicant is applying to be recognised,
- explain how the applicant meets the criteria and required operational capabilities prescribed in regulations,
- otherwise be made in the manner prescribed by the regulations (if any).

Decision made by Chief Executive

The Chief Executive must:

1. have regard to the matters specified in the regulations before making a decision; and
2. otherwise make the decision in the manner prescribed in the regulations (if any).

The Chief Executive may grant recognition status to an applicant if the applicant meets the criteria or other requirements prescribed by the regulations.

The Chief Executive may grant recognition status:

1. with, or without, conditions relating to the matters, criteria, and requirements specified in regulations
2. for a specified period that is not less than 5 years, and
3. for a specified sector(s)

Recognised standards bodies may apply to extend their period of recognition, in a manner prescribed in regulation.

The Chief Executive may suspend or cancel recognition status for a standards body if:

1. the recognised standards body, by written notice, requests the Chief Executive to do so,
2. the Chief Executive is satisfied that the recognised standards body is incapacitated, has ceased to exist, or has become subject to an insolvency event within the meaning of section 6(4) of the Financial Markets Conduct Act 2013, or
3. the Chief Executive is satisfied that the recognised standards body has materially contravened criteria, requirements or conditions imposed on it.

For the avoidance of doubt, suspension or cancellation of a recognised standards bodies recognition status does not impact the compliance of designated data holders who have implemented qualifying technical standards, the status of qualified standards that were published by such recognised standards body while it was recognised, or the statutory rights for accredited requestors to access the electronic systems for the class(s) which they are accredited.

The Chief Executive must publish a public register of recognised standards bodies, including, but not limited to:

1. the name of the organisation
2. contact details for the organisation
3. the conditions (if applicable)
4. the specified period, and
5. the specified sector(s).

Discussion: criteria (attributes) to consider for a recognised standards body

To promote a competitive data access framework, recognised standards bodies must not inappropriately use their position to benefit a single set of interests. Development and management of qualifying technical standards should reflect the needs of a full range of relevant interests—customers (both personal and non-personal), incumbent banks and challengers, and large and small actors.

A qualified standard, by definition, would be developed and maintained by a fair, open, and inclusive standard-setting body, a body that reflects the full range of relevant interests and expertise.

This list of attributes is for **discussion purposes** and should not be considered a recommendation.

1. **Openness:** The sources, procedures, and processes used are open to all interested parties. Parties can meaningfully participate in standards development on a non-discriminatory basis.
2. **Inclusion:** Public interest groups and consumer voices are meaningfully sought, including, but not limited to, actively seeking the view of Te Ao Māori, digital inclusion, consumer protections, and equity specialists.
3. **Balance:** The decision-making power is balanced across all interested parties, at all levels of the recognised standards body. There is meaningful representation for large and small commercial entities within these categories. No single interest or set of interests dominates decision-making. Achieving balance requires recognition that some participants may play multiple roles, such as being both a data holder and an accredited requestor.
4. **Meaningful engagement:** The recognised standards body uses documented and publicly available policies and procedures, and it provides adequate notice of meetings and standards development, sufficient time to review drafts and prepare views and objections, access to views and objections of other participants, and a fair and impartial process for resolving conflicting views.
5. **Appeals:** An appeals process is available for the impartial handling of appeals.
6. **Meaningful majority:** Standards development process is ideally progressed by consensus, which is defined as general agreement, but not unanimity. During the development of consensus, comments and objections are considered using fair, impartial, open, and transparent processes. However, for standards development decisions to move forward, a meaningful majority (not consensus) of stakeholders should agree.
7. **Transparency:** Procedures or processes for participating in standards development and for developing standards are transparent to participants and publicly available.
8. **Operational capability:** A standards development lifecycle policy is published, for technical standards.