

Response to the EC targeted consultation on an Open Finance Framework and data sharing in the financial sector

Executive summary

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ESBG and its members share the objectives of the European Commission’s data strategy and the commitment to create a single market for data that will constitute a potential source of growth and innovation. A European approach to data is essential to ensure competitiveness, avoid fragmentation, benefit from an effect of scale and guard against windfall effects from which certain non-European players could benefit. A flourishing data-driven market should be based on principles of mutual benefits and right incentives for all market participants.

VOLUNTARY DATA SHARING BASED ON INCENTIVES FOR DATA HOLDERS

A fair share of value and risk is a fundamental prerequisite for the success of data sharing. The PSD2 showed that the principle of right of access to data by some market participants – free of charge - did not foster the best outcome. Therefore, before choosing any policy option, we consider it crucial to wait for the conclusions of the ongoing PSD2 review.

The PSD2 was the first piece of legislation that introduced the right of access to payment data in the financial sector. The outcome of the review is therefore necessary to analyse the lessons learned before drafting a new regulatory framework and before deciding whether it should be based on the same principle.

Instead of relying on the right of access, we consider that a voluntary data sharing approach is needed for the proper functioning of a data economy, one that supports digital innovation and brings efficiencies to consumers, businesses, and authorities. Such an approach will foster contractual agreements between data holders and data recipients and would be in line with the European principles of a market economy: freedom of contract to allow for sustainable business models to be developed and a level playing field for all economic actors. Indeed, given the current possibilities and the existing market practices, we do not see any benefits that could derive from further regulation: the market should be free to innovate and to develop initiatives based on the ecosystem’s needs, rather than on mandatory regulatory frameworks.

Therefore, for the proper functioning of the data economy, it will be crucial to ensure proper incentives for data holders to continue investing in high-quality data. Cross-sectorial data sharing towards the financial sector should also be considered, as innovation in finance also increasingly relies on non-financial data.

SAME DATA, SAME RISKS, SAME RULES

In an open finance framework, the principle “same activity/data, same risks, same rules” shall apply to all actors, including third party providers. To ensure customer’s trust, every third party accessing customer data shall ensure privacy rights and data protection in compliance with all applicable rules. As such, we suggest third party within the financial sector be subject to the same licensing requirements and to supervision by competent authorities. This, on the other hand, would also ensure a level playing field. However, it will also be key to inform customers and emphasise that personal financial data could end up outside of the supervised financial sector, hence losing the protection which is provided for instance by the bank secrecy requirements.

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