Open banking and Australia's data-sharing regime: six lessons for Europe

As the phenomenon of open banking spreads, countries would be better off by working together and making data-sharing across jurisdictions a smoother process. ***Ross Buckley, Natalia Jevglevskaja,*** *and* ***Scott Farrell*** *write that the sooner national policymakers find themselves on the same page, the more control consumers will have over their data at home, and abroad, and the more data-sharing will be able to drive needed competition in economies. They highlight six lessons from Australia's experience that could help policymakers around the world establish robust data-sharing frameworks.*

Open banking is fast becoming a global phenomenon, promising to transform financial services by enabling the safe, swift sharing of personal data. The idea of open banking originated in Europe, and is gaining traction in the US, but Australia is well ahead of these countries and is now rolling data-sharing out across other sectors of its economy. Our recent paper argues that other nations have much to learn from Australia's experiences with open banking and data sharing more broadly.

What is open banking?

Open banking is generally understood as the right of consumers to share their banking data with third parties of their choice so these can offer a better value for money service. It began with the revised Payment Services Directive (PSD2) in Europe in 2015. Since then, the UK has led its development internationally. Yet, though Europe pioneered this development, Australia is applying the concept of consumer data portability far more broadly. Its Consumer Data Right (CDR) regime, introduced in 2019, is unique in its intention to implement economy-wide data sharing across banking, energy, telecommunications, pensions, insurance, groceries, health, education, and other sectors.

Six lessons from Australia

We suggest there are five clear lessons from Australia's experience to date, plus a sixth lesson, yet to be proven, but which we believe exists.

1. The desirability of expanding open banking to open finance

While open banking frameworks are designed to make payments more competitive, transparent, secure, and versatile, they often remain constrained in that a range of financial products and services (e.g., mortgage and savings accounts) are often not included. In contrast, Open Banking in Australia is much broader in scope and requires access to be provided to 29 different bank accounts (including savings, debit, mortgage, and business accounts).

The Australian approach is advantageous. For example, including mortgage accounts in a consumer-directed data-sharing regime facilitates more competitive home loans. Whether they include banking or other financial products (such as insurance, pensions, etc), open finance applications enable a broader range of services tailored to the consumer preferences and needs.

2. The desirability of expanding the data-sharing regime to other economic sectors

Other nations' ambitions to become frontrunners among digital economies would be well served by overarching legislative and regulatory data-sharing frameworks that apply broadly across economy sectors. Following Australia's example, other nations should expand data sharing beyond finance to extend the benefits of increased competition, innovation, and efficiency gains to other sectors, such as energy, insurance, and pensions.

3. The need for the process to be led by a policy agency

Another discrete lesson of the Australian experience is that the development of cross-sector data-sharing processes should be driven by a policy agency, not a regulator. Australia learnt the hard way that the design of a radically new system is not merely a regulatory issue but requires a holistic understanding of the domestic economy and its desired trajectory. Leadership of this process requires ability and experience in analysing policy issues with a whole-of-economy perspective and necessitates more than a regulatory mindset.

4. The need for data-sharing to be 'a living framework'

Regardless of which sectors will be involved in the domestic data-sharing frameworks, these frameworks should be 'living' – that is, ready to admit their errors and change. This is because shifts in consumer and business preferences and especially technological innovation are likely to occur faster than regulatory regimes develop.

Although evolving data-sharing regimes face many challenges, Australia has made ongoing improvements to its system by repeatedly engaging with constructive critique provided by stakeholders. Though this may be easier for a mid-sized economy like Australia than regulatory behemoths like the US or the EU, there is nonetheless a clear need for regulatory frameworks that are sufficiently clear, but not overly detailed, and that appropriately favour experimentation over heavy-handed ex ante regulation.

5. The need for timely consumer education

While consumers are central to data-sharing policy developments they will only be able to exercise their rights effectively once they understand them. However, as the Australian experience shows, leaving consumers out of the consultation process on the development of Open Banking can lead to poor awareness and engagement. A lack of awareness represents a significant barrier to consumer uptake and thus effective consumer education should not be postponed for too long.

6. The potential of action initiation to incentivise fairer commercial dealings

Expanding data-sharing to further sectors provides the potential to do away with loyalty penalties and reinstitute a commercial morality which appears to have often gone missing in modern business.

Consider the following example. Once CDR is expanded to the energy sector in Australia, consumers will be able to easily compare their current service against what another supplier is offering on the basis of the consumer's precise consumption patterns. If one prefers the new arrangements the competitor offers, one will simply click another button, initiate the transaction, and change providers. In this way, action initiation as part of a data-sharing regime will make practices – such as charging new customers lower prices on home loans or electricity than existing customers – mostly ineffective. There will be no opportunity to retain a customer once they learn they are being exploited, for they will be gone. This will force businesses to be fairer than many are being today.

Looking forward: from 'global leaders' to 'strong peers'

As we demonstrate in our paper, Australia's experiences to date offer valuable lessons for others. While many countries aim to become 'global leaders' in data sharing, a worthier goal may be to focus on becoming 'strong peers'. Establishing robust national data sharing frameworks is a challenging task and will remain a learning-by-doing undertaking for years to come. However, as data by its nature defies boundaries and wants to move freely, approaches to its regulation need to be consistent and well thought through across jurisdictions. The sooner national policymakers find themselves on the same page, the more control consumers will have over their data at home, and abroad, and the more data-sharing will be able to drive needed competition in economies.

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Notes:

- *This blog post is based on Australia's Data-Sharing Regime: Six Lessons for the World, forthcoming in King's Law Journal (UNSW Law Research Paper No. 21-67)*
- *The post expresses the views of its author(s), not the position of LSE Business Review or the London School of Economics.*
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