**Open banking submission -** [**finder.com.au**](https://www.finder.com.au)

**Executive summary**

[finder.com.au](https://www.finder.com.au) (“Finder”, “we”) is Australia’s most visited comparison site, with more than 5 million visitors a month. Finder compares 50+ product categories, including credit cards, home loans, savings and transaction accounts, personal loans and travel money. The free service is independently owned by two Australians: Fred Schebesta and Frank Restuccia.

Finder welcomes the Open Banking review. Finder’s mission is to empower everyday Australians to make better decisions. We appreciate that Open Banking presents an opportunity for more Australians to gain access to, and control over, their banking data and we anticipate these reforms will equip consumers with the information they need to make better decisions.

We are confident this could also lead to improvements in financial literacy, empower consumers and lead to a more competitive and innovative banking sector.

Finder believes the success of these critical initiatives is dependent on a strong regulatory model overseen by an efficient, effective and adequately resourced Regulator. Finder commends the choice of the ACCC as the lead regulator and believe that the ASIC, APRA and OAIC should also have key roles in driving competition and safeguarding the rights and interests of Australian consumers.

Our submission on the recommendations focuses on the framework outlined in Chapter Two of the Open Banking Review “*Open Banking Regulatory Framework*”.

**Section Two - Open Banking regulatory framework**

***Recommendation 2.5 - The Standards***

We recognise and accept the need to allow for competing approaches but would suggest that any alternatives considered must neither frustrate the intent of the reforms, nor work to the disadvantage of either consumers or participants. Any proposed alternatives must meet, and exceed, the general requirements and must not be recommended merely as a means to avoid compliance with the new obligation to provide banking and transactional data. In Finder’s view, any proposal must be technologically and competitively neutral.

For consistent standards and the opportunity for participants to develop alternatives, this recommendation needs to be drafted in a way that better balances the rights of consumers and participants. We are concerned that the current proposal may discourage competition. It should not benefit incumbents at the expense of others whereby a regulatory licensing could be enforced.

***Recommendation 2.7 Accreditation and 2.8 The Accreditation Criteria***

Finder considers that the success of Open Banking depends on the robustness and effectiveness of the regulatory regime, including the accreditation process. While we believe the accreditation process should not represent an insurmountable barrier to new entrants, or disproportionately advantage incumbents, we strongly believe that an effective licensing and conduct regime is essential to ensure consumer rights are protected.

We support the view outlined in 2.7 and recommend that any participant must be licensed and possess either an Australian Financial Services License (AFSL) or an Australian Credit Licence (ACL). These conditions will ensure any participants are appropriately resourced and possess the competencies and capacities to provide services in accordance with the law.

In addition, licensing will ensure that every participant has dispute resolution process, adequate capital, breach reporting obligations and consumer protection measures including Professional Indemnity Insurance. We would, however, oppose any suggestion to require participants to hold, or obtain, a banking licence (in the form of an ADI authority or similar) because we believe that this is a barrier to entry that will reduce competition and frustrate the intent of these reforms.

We would support the imposition of additional prudential standards on participants similar to the Australian Prudential Regulation Authority (APRA’s) ‘*fit and proper person*’ test. We would also support the extension of the Banking Executive Accountability Regime to all participants.

Further, we would suggest that participants in Open Banking should have licence conditions imposed on their AFSL/ACL to require compliance with higher standards of data protection. We think it would also be prudent to require the Licensee’s annual audit to specifically confirm compliance with the relevant IT standards and the adequacy of their data security and data management capability.

Finder is not opposed to the staggered introduction of a ‘passporting system’ for foreign accredited parties subject to them being accredited by an equivalent system and to their willingness, and capacity, to reciprocate the exchange of data. We believe that foreign accredited parties should not be ‘passported’ unless, and until, they can meet or exceed the provisions of the Privacy Act and, in any event, they should not be passported until all Australian ADI’s have transitioned across to the Open Banking regime. We believe these steps are critical to ensuring the rights and interests of Australian consumers are not compromised by international entities that don’t, won’t or can’t meet Australian legislative requirements.

***Recommendation 2.10 Customer Complaints and Remedies***

Finder supports the view outlined in 2.7 and recommends that any participant must be licensed and possess either an Australian Financial Services Licence (AFSL) or an Australian Credit Licence (ACL). This effective licensing requirement will reassure Australian consumers that both data recipients and data providers (‘participants’) will be held accountable for compliance with these requirements. We do not believe that this requirement compromises the role and effectiveness of the ACCC. In our view, it promotes the supervisory and enforcement role of the ACCC while recognising the established capability of ASIC to monitor the conduct and compliance of licensed entities. The success of this co-regulatory model will require the parties to be adequately resourced and provided with a clear mandate to actively enforce these requirements.