

## Evaluation of Australian Open Banking Regulation: Balancing Customer Data Privacy and Innovation

**Authors :** Suman Podder

**Abstract :** As Australian 'Open Banking' allows customers to share their financial data with accredited Third-Party Providers ('TPPs'), it is necessary to evaluate whether the regulators have achieved the balance between protecting customer data privacy and promoting data-related innovation. Recognising the need to increase customers' influence on their own data, and the benefits of data-related innovation, the Australian Government introduced 'Consumer Data Right' ('CDR') to the banking sector through Open Banking regulation. Under Open Banking, TPPs can access customers' banking data that allows the TPPs to tailor their products and services to meet customer needs at a more competitive price. This facilitated access and use of customer data will promote innovation by providing opportunities for new products and business models to emerge and grow. However, the success of Open Banking depends on the willingness of the customers to share their data, so the regulators have augmented the protection of data by introducing new privacy safeguards to instill confidence and trust in the system. The dilemma in policymaking is that, on the one hand, lenient data privacy laws will help the flow of information, but at the risk of individuals' loss of privacy, on the other hand, stringent laws that adequately protect privacy may dissuade innovation. Using theoretical and doctrinal methods, this paper examines whether the privacy safeguards under Open Banking will add to the compliance burden of the participating financial institutions, resulting in the undesirable effect of stifling other policy objectives such as innovation. The contribution of this research is three-fold. In the emerging field of customer data sharing, this research is one of the few academic studies on the objectives and impact of Open Banking in the Australian context. Additionally, Open Banking is still in the early stages of implementation, so this research traces the evolution of Open Banking through policy debates regarding the desirability of customer data-sharing. Finally, the research focuses not only on the customers' data privacy and juxtaposes it with another important objective of promoting innovation, but it also highlights the critical issues facing the data-sharing regime. This paper argues that while it is challenging to develop a regulatory framework for protecting data privacy without impeding innovation and jeopardising yet unknown opportunities, data privacy and innovation promote different aspects of customer welfare. This paper concludes that if a regulation is appropriately designed and implemented, the benefits of data-sharing will outweigh the cost of compliance with the CDR.

**Keywords :** consumer data right, innovation, open banking, privacy safeguards

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