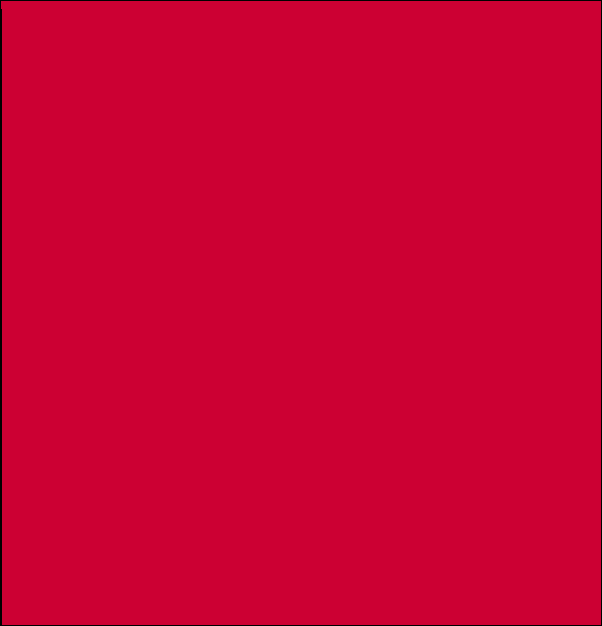


Your response

Question	Your response
<p>Question 3: Do you agree with our view of the benefits for people and businesses that Open Communications could generate?</p>	<p>The Information Commissioner is broadly supportive of any initiative which gives individuals more control over their personal data.</p> <p>Open Communications is potentially an excellent opportunity for raising awareness of data protection and how personal data is processed, both for both the consumer and the businesses involved.</p> <p>Making people aware of what is happening to their data, who is processing it and why empowers the consumer to become ‘data aware’ and make good decisions.</p> <p>Ensuring that individuals’ rights are built into new technology and governance procedures can enhance public trust in new products, as well as helping businesses to meet their obligations through developing a practical understanding of the requirements of data protection legislation.</p>
<p>Question 5: Are there any risks that we have not identified that could reduce the overall benefits of Open Communications? Please provide evidence, where possible.</p>	<p>Please see our comment on the use of language in the response to Q6, below.</p>
<p>Question 6: Do you agree with the core principles that we have identified for the design of Open Communications?</p>	<p>We would echo the comment on page 41 that ‘[Customers] should not feel deterred by complicated jargon or confusing and burdensome processes’. The issue of language has posed some challenges in the open banking ecosystem: for example, the word ‘consent’ having multiple interpretations in common usage, but also different legal meanings across different pieces of legislation.</p>

	<p>A system rendered less accessible by confusing terms will in turn be less transparent, because users may not understand what they are agreeing to, how their personal data will be processed, or how it might be shared, particularly as the concept may be new to them.</p> <p>If primary legislation is being sought, we would recommend that the terminology it uses is carefully considered to avoid further compounding these issues.</p>
<p>Question 8: Do you agree with our initial views on how to approach key issues for the design and operation of Open Communications? Do you have comments to make on other implementation issues?</p>	<p>The Open Banking Implementation Entity views the GDPR as being central to the implementation of the open banking protocols, and invited the ICO to be a member of the OBIE Steering Group and attend meetings and workshops. This regular engagement allows us to provide expertise in a timely and effective manner across a broad range of matters including transparency, fairness, and customer experience.</p> <p>We would like to encourage a similar approach in the development of the open communications arena. Structured cooperation enables us to keep apprised of advancements and concerns at an early stage. If businesses within the ecosystem require advice about privacy and data protection, our experience is that it is beneficial to give this input at the earliest available opportunity to embed it into the innovation process – known in the GDPR as a ‘data protection by design and default’.</p> <p>We are already closely engaging with Ofcom through the CMA’s Digital Markets Taskforce and the Digital Regulatory Cooperation Forum, and work with BEIS in relation to its SmartData initiative. Open communications is a natural addition to this relationship which has already received input from the ICO’s Innovation Hub.</p>
<p>Question 10: What are your views on the appropriate arrangements for determining liability and redress in disputes between customers, providers and / or third parties?</p>	<p>We are only able to address this from the perspective of the data protection legislation that we oversee.</p> <p>The ICO provides a free, accessible and timely complaints process upholding information</p>



rights, including allowing individuals a route to redress where their data protection rights have not been adequately considered and upheld. This process provides an effective method of redress which supports good information rights practices.

Under the GDPR, while data protection supervisory authorities have no power to award compensation, there is a right to seek a judicial remedy through the courts, including damages.

In a data protection context, where a court awards damages for an infringement the GDPR contains provisions about apportionment of liability (which is joint and several) where the parties are jointly responsible for the damage.