

# Position Paper

## Bitkom on Open Finance in the Context of the Current EU Commission Consultations on the PSD2 Review and an Open Finance Framework

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### Introduction

The ongoing political discussions on developing a European Open Finance Framework are highly welcomed by Bitkom and its members. Having embraced early on an eco-systemic approach toward finance, Bitkom – from a finance point of view – voices the industry perspectives of banks, exchanges, insurers, and other financial entities as well as FinTechs, third party providers, and tech companies.

The following aims to focus on industry developments mostly unleashed by PSD2/XS2A and thereby add to the ongoing political discussions linked to establishing an Open Finance Framework (vertical developments) and general debates about the European Data Economy (horizontal developments). It goes without saying that it is of utmost importance to align horizontal and vertical developments to (a) overcome potential double regimes in the field of open finance, (b) ensure coherence regarding definitions in different legislative vehicles, and (c) keep regulatory obligations to such an extent that new players manage compliance requirements. This will be crucial for the PSD2 review as well as the development of the data act.

### Singling out XS2A from PSD2 and aligning political approaches toward data flow

Whilst PSD2 has a much wider scope, the directive has recently been heatedly debated in terms of XS2A, APIs and data flows. This stems from PSD2's very idea to increase competition. However, open finance has meanwhile "surpassed" its PSD2 framework. Having a look at other vertical and horizontal developments it can be undoubtedly said that the idea of accessing and sharing data has spilled over. The Digital Markets act or the current Draft Data act are just two examples in this very context which clearly indicate that an adequate framework is in need of cross-vertical and horizontal alignment to overcome the risk of potential double regimes for the financial sector.

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In that regard, Bitkom suggests singling out everything related to the access and flow of data from PSD2 and transfer it to an open finance framework that goes beyond the access to payments account data. Judging from the currently ongoing targeted consultations, we see that the EU Commission is considering such an approach which is highly welcomed by Bitkom.

Reducing complexity while maintaining legal certainty will be key to any potential regulatory steps to ensure fair competition between established and new players. Stronger European harmonization will definitely help to reduce cross-border complexities and support financial entities in scaling their offered services.

In the long run, alignment processes must also extend to supervisory bodies. In the future, we will see an increased number of use cases that will increasingly call for the cooperation between financial and non-financial entities.

## Overcoming silos, gate keeper functions, and other boundaries for reconciling interests and enabling new use cases

In order to unleash the full potential of open finance use cases, silo-approaches toward regulation must be overcome. To do so, data sharing models may not be limited to ASPSPs. There must be a discussion about extending data sharing models between other financial as well as non-financial entities. Widening the scope of data sharing would improve offered personalized services. This will not only set the basis for innovative services but also help in reaching a level playing field in a growingly heterogeneous eco system. Moreover, gatekeeper functions will be reduced, which will further increase both cooperation as well as competition and enable market participants to compete with global tech players.

When speaking of extending the existing infrastructure for data sharing, it is paramount to also deal with technical layers and APIs. Hitherto, there is no European PSD2-API standard which impedes scale-up processes. Simultaneously, substantial investments have been allocated to fulfill obligations. Thus, it is important to establish an interoperable European infrastructure for data sharing among financial entities as well as across industries and to align nascent national and European initiatives for data sharing. RTSs and standardization are key to achieve user convenience, efficiencies, and scalability. Accordingly, further endeavors toward standardization shall address actual market needs to limit investment costs to a reasonable extent. Moreover, there must be a debate about questions linked to liability and costs, regarding the provision of data sharing infrastructures, to allow for sustainable business models across the value chain.

## GDPR: fixing existing shortcomings

To Bitkom, GDPR in its general essence is one of Europe's biggest achievements. In fact, we have seen international companies implementing the standard globally, which is why GDPR can be regarded as a prime example of setting international standards. Yet, GDPR put into practice has also led to increased legal uncertainty. To underpin this assessment: in Germany alone, we see unnecessary fragmentation among the 16 federal states and their differing interpretations of GDPR.

Likewise, we see conflicting potential between GDPR and PSD2, which is why we call for an alignment of both acts and more clarity in future regulatory efforts to come. That said, Bitkom has no interest in weakening GDPR or its goals. In fact, PSD2 has strengthened the consumers' rights concerning their own data, granting them the right to decide themselves what entities they want to share data with. Still, in actual business use cases there is conflicting potential between PSD2 and GDPR which should be clarified to the benefit for both the consumers as well as service providers.

## Resolving SCA and Digital Identities

In order to become the spearhead of the digital economy – and this most definitely goes beyond financial services – Europe and its member states must intensify their focus on digital identities. Thus, resolving PSD2/SCA as well as furthering digital identities (eIDAS) is essential to see an uptake and integration of new and existing services. EBA's latest efforts regarding digital customer onboarding to reduce inner-European fragmentation are welcomed in this context. In order to achieve a state of frictionless, intra-European financial services, however, we need solutions that go beyond mere insular onboarding processes for distinct services. Fully fledged digital SSIs (self-sovereign identities) will be key to use and seamlessly combine different services for consumers without media switches and disruptions. Furthermore, it must be highlighted that digital identities are in need to be extended to machines as well for corresponding B2B use cases.

Bitkom represents more than 2,700 companies of the digital economy, including 2,000 direct members. Through IT- and communication services alone, our members generate a domestic annual turnover of 190 billion Euros, including 50 billion Euros in exports. The members of Bitkom employ more than 2 million people in Germany. Among these members are 1,000 small and medium-sized businesses, over 500 startups and almost all global players. They offer a wide range of software technologies, IT-services, and telecommunications or internet services, produce hardware and consumer electronics, operate in the digital media sector or are in other ways affiliated with the digital economy. 80 percent of the members' headquarters are located in Germany with an additional 8 percent both in the EU and the USA, as well as 4 percent in other regions of the world. Bitkom promotes the digital transformation of the German economy, as well as of German society at large, enabling citizens to benefit from digitalisation. A strong European digital policy and a fully integrated digital single market are at the heart of Bitkom's concerns, as well as establishing Germany as a key driver of digital change in Europe and globally.