

SUBMISSION ON POLICY ISSUES IDENTIFIED IN THE INTERIM REPORT

Submitted By: [REDACTED]
Email: [REDACTED].au
Phone Number: [REDACTED]

Submission for: My Self

Name of other person, business or organisation:

Do you agree to your submission being published: Yes

Do you agree to your full name being published: No

Your submission:

Thank you for this opportunity to make a submission. I congratulate the Commissioner and the supporting staff for their significant efforts in bringing to light the woeful practices in the financial industry in Australia.

I apologise for only reading snippets of your interim report and this submission will only make some general points of opinion, as I could not possibly address the myriad of important questions raised in the evidence so far and posed in the report.

Government control of legislation and enforcement: There is so much that could be done in this arena. The combined intellect of your team are well placed to provide specific guidance on law. A couple of points that are concerning:

1. The sheer size of the Acts and Regulations (not forgetting the codes of practice) makes so much of the legislation only available to those with the financial resources to fund a full time legal team. This is both a limit to competition and creates a vast chasm between the large businesses and consumers. Condensing and simplifying the legislation so that it can be understood by a reasonably educated citizen would be worth a gazillion to the country.
2. Providing the departments and agencies that are empowered to implement the legislation and regulations with the funding to be effective in performing their duties, the ability to engage staff to gain the expertise to effectively complete the work and the access to a significant fund (in the Department of the Prime Minister?) to enable any questions about the legislation and regulations to be tested in the courts, without detriment to be agency budget. As the leader of the government, if the legislation is lacking, the leadership of the government should ensure the articles enacted are able to perform their intended function or make changes until they do in fact enable enforcement to be seen to be done through the courts. Cost for this function should not fall on the limited resources of the individual agency, nor the government legal services entities. With the vast financial resources available to the big banks (for example), agencies could use their entire budgets in the courts and not have resources left to enforce, and may lose the action in legal decisions.

Self Regulation: This is an interesting area of ethics and business acumen. On one hand the industry wants to both control the regulation and is willing to pay for its enforcement. On the other hand, the regulator is being paid by those it is investigating and making judgements about their behaviour. It must be a very difficult task to balance the need to demonstrate that the regulation is being conducted at the same time as limiting the additional costs to the cooperative owners. If this is going to continue, there needs to be a greater arm's length between the parties and the regulator must be explicitly required to act in the interests of the consumer. It is the lack of power and resources of the consumer that requires support, not the banks.

Grandfathered Commission: While I understand the need for these arrangements to be used in transition, given the long term nature of the products, there should have been a reasonable limit to the time these can apply - no more than 10 years (that is far longer than other industries get for transition - example = car manufacturing).

General or Financial Advice: Only a small minority of consumers are likely to pick up on the nuance of the difference between general advice and specific financial advice, particularly when in a financial institution. Personal financial advice should only be given as specific advice to an individual and be paid for by that individual to get professional advice from an individual whose sole contractual arrangement is to the individual. No commissions or like gifts should be received by financial advisors from the products they recommend (and this includes "training" or other events and services provided by the product owner).

Remediation: This needs to be a swift and full remediation. Remediation to restore the aggrieved party to the financial position they would have been, had the advice or financial product been the best available and then add 10%. Think about supermarkets scanning code of conduct and some retailers price match guarantee as examples. Financial products are more complex than a simple retail transaction but the principle comparison is still valid.

Loan Risks: The financier takes on a loan balancing the risk that the money and interest will not be fully paid. By provision of separate collateral, from the applicants and the guarantor, the risks are largely negated. However, the bank should not leave either the applicants nor the guarantor in a situation of poverty as that places the burden of risk on society, who have not been a party to the negotiations. A bad loan is a banker's risk and an applicant's risk and the bank should shoulder a great deal of the burden (that in itself will make the bankers more attentive to the future ability of the applicant to repay the loan). Mortgage Brokers and Aggregators should be paid for service and that service ends with the loan decision with the banker - there should be no ongoing commission arrangements unless explicitly and simply agreed to by the applicants at the time.

Thank you.