Submission to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

1. Adam Smith in *The Wealth of Nations* stated: “It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest.”
2. Competition in the market and voluntary exchange enables the self interest of sellers to advance the interests of consumers.
3. Banking in Australia is not a free market. The Interim Report of the Royal Commission found a lack of competition.
4. Is the aim of the extensive regulation of the industry to stop banks using information asymmetry and their market power to exploit consumers?
5. The *New Zealand Treasury Brief to Incoming Government 1987* Appendix, Page 433, stated: “A social structure which is devised on the assumption that people are altruistic will obviously be at risk of manipulation and opportunistic behaviour by non-altruistic individuals.”
6. Jeff Borland, in the Australian Financial Review, 10 February 1999, *Monopoly: just another Olympic sport,* wrote: “Corruption should be no surprise, because it is the almost inevitable outcome from the existence of a regulated monopoly.” Banks have market power, similar to a monopolist’s market power.
7. Self interest is a powerful force motivating human beings. Expecting banks not to exploit their market power is asking people to ignore their self interest.
8. Information asymmetry matters because of the costs of obtaining information. The Royal Commission provided the resources to produce information not known to bank executives.
9. Economics expects regulatory failure.
10. The Interim Report of the Royal Commission confirms that the lack of competition allows banks to exploit consumers despite the extensive regulation of the industry.
11. Prescribing how regulated entities manage risks shifts accountability to the government when problems arise and the regulated entities have complied with the prescribed risk management. The BEAR and other regulation may suffer from this problem.
12. The Interim Report does not favour more regulation.
13. The former chairman of Westpac, Mr John Uhrig AC, in his *Review of the Corporate Governance of Statutory Authorities and Office Holders,* which examined ASIC and APRA, included, at page 63: “The advisory role of departments includes, but is not limited to, advice and analysis on key documents produced by statutory authorities (for example, financial performance, corporate plan, progress against objectives and annual report) and on appointments to statutory office holder or board positions.” What lessons has the Treasury learnt from this role in relation to ASIC and APRA?
14. The Uhrig Review also recommended, page 68, that the government establish an Inspector General of Regulation.
15. Does economics provide mechanisms to establish the powers and resources required by a regulator or regulators to effect acceptable compliance given the lack of competition in the banking industry?

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