Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary,

Inquiry into the post-GFC banking sector

Thank you for having this Senate Inquiry.

Please find following my submission to the "Inquiry into the post-GFC banking sector".

Yours sincerely,

Maria Rigoni

"Money is a tool, a basic instrument of exchange.
Finance relates to managing money and money resources,
Wealth is a product of using resources wisely."

Maria Rigoni

For the purpose of this paper when the term 'bank' is used I mean it to include all Australian authorised deposit-taking institutions operating as banking businesses.

Banking in its simplest form offers savings and loan products and these are the products most of the general public go to a bank to obtain.

The derivative market place is a house of cards. It makes and bankrupts millionaires in a minuscule amount of time. Rule of thumb is do not invest anything here that cannot afford to be lost. Hedging is high risk betting on a very uncertain future outcome.

Banking is a part of a monetary system, a monetary system which is currently used by all the major economies in the world. It is a system that is failing and needs authentic and radical reform.

The system is failing as the banking institutions gamble using other people's money and have become too large, too powerful, too diversified and control the money supply of individual economies around the world.

Governments across the globe have lost their ability to effectively implement and manage monetary policy and in a good number of instances manage their own sovereign debt.

The senate inquiry into competition within the Australian Banking System gave the four major players exactly what they wanted. Covered bonds and an 'as is' market place.

It was disappointing to find out via the senate website video that the main focus of the inquiry was to establish whether the four major players were offering enough products and services to compete with each other.

Competition... what competition... the major players operate under so many brand names it is difficult for experienced financial service operators to keep up with who is owned by who and which major player's product they are selling to the unassuming and trusting general public.

Vertical integration in the financial services industry has resulted in the major players buying up all the distribution channels and pretending not to be themselves in the market place.

While walking past a Bank of Melbourne branch recently I observed competition in the Australian banking sector as it is. There was a big sign on the window saying:

> "We will match the Big 4 on price and we'll beat them on service."

Recommendation:

That via this senate inquiry Westpac is asked:

1. *Is this not misleading and deceptive as "Bank of Melbourne" is a brand name of Westpac; and*

2. *How can it be profitable for Westpac to compete against itself, how can they beat their own service and why do they feel they have a need to.*

When people deposit money into Australian banks they no longer own that money. In exchange for their money the bank gives these people a promise to repay their deposits of money at some future time. In other words... "We will let you think so. But it is not your money. It's ours!"

This is true whether it is deposited into a deposit account or a loan account with a redraw facility.

To make Australian bank depositors ***feel*** that their money is safely tucked away in a financially stable business the federal government during the Great Financial Crisis introduced the financial claims scheme for account-holders with insolvent Australian banks.

The financial claims scheme is nothing but spin. The government cannot guarantee that depositors money in private banking institutions is safe. All the scheme does is advance limited funds to depositors until the failed bank's assets are liquidated.

Any one of our banks given certain circumstances can go "bust" just like any other private business or any government.

While this is not a desirable outcome it is an authentic truth seen through the Bankwest failure. An experience that validates how real the suggestion is.

Overzealous capital adequacy requirements will cause Big Banks and a country's economy to fail no matter how much blind faith and misguided loyalty the general population has in what they are led to believe.

Recommendation:

That an investigation is conducted and publicly report on why the big 4 have been protected by the government in the way they have been in recent times at the expense of smaller businesses and everyday Australians. Question to be answered is why is it that the government wants privileged private businesses to be financially stable while these privileged businesses have no regard to how many people they financially hurt.

ANZ Lending Terms and Conditions obtained from their website:

> *"As a consequence of an early repayment event, such as an early repayment by you, ANZ may incur additional costs or loss. Although the early repayment event which occurs under your loan contract is used in the calculations, the early repayment cost is not necessarily or directly linked to any actual cost or loss incurred by ANZ."*
>
> Investment Lending - 01.12.2010 - *"ANZ is not obliged to pay you any early repayment benefits."*
>
> consumer lending version 16 | 05.12 - *(ANZ does not pay you an early repayment benefit where this calculation does not result in an early repayment cost that is payable by you.)*

ANZ Important information about ANZ Home Loan Offset accounts - letter dated 30 May 2012

> *"What has changed?...*
> *...allow up to five days for your new account to be linked to your loan. Once it has been linked, interest offset will commence."*

Recommendation:

That the ANZ is asked why they are profiteering at the expense of the everyday Australian. Is this behaviour honest, fair and efficient?

Commonwealth Bank of Australia fixed rate lock fee.

Until a few years ago the Commonwealth Bank of Australia did not have this fee. When the rate lock fee was introduced the amount was $250-. Today the fee is $750- per loan split. Rate Lock fee is in addition to a $600- establishment fee.

Website information on the page where the rates are quoted says:

> ***Rate Lock fee***
>
> *There is a $750 fee for each Rate Lock (only available for 1-5 Year Fixed Rates).*

You have to search their website further to find the following:

> ***"Rate Lock***
>
> *When you apply for a fixed rate loan, you should be aware that the interest rate may change during the time between your loan application and when we fund the loan.*
>
> *If you want to be certain that your rate will be the same as when you first applied, you should consider our Rate Lock option. Rate Lock guarantees your fixed rate for a period of up to 90 days. It can be added to applications at anytime during the application process, but must be locked in before funding and settlement.*
>
> *Rate lock is only available on Fixed Rate Home Loans for 1 – 5 year terms and 1 Year Guaranteed Rate Home Loans. You will need to pay a $750 fee for each Rate Lock."*

The Commonwealth Bank of Australia would be very aware that the advertised fixed interest rate is only available for loans that settle on their books on the day of the advertisement yet they do not make a statement like "Rate available today only".

(Most bank's have introduced this type of fee).

The Commonwealth Bank of Australia charge an exception fee of $5- for the dishonour of a direct debit and CommSec charge $54- for the same exception.

Recommendation:

That the Commonwealth Bank of Australia is asked how they can justify the rate lock fee and the disparity between the retail bank fee and the CommSec share trading account fee.

Does the Commonwealth Bank of Australia (and other banks) consider that they are enticing prospective everyday Australians by advertising an interest rate for a fixed rate loan that *may not be available for a reasonable time at the advertised price? Do they consider that a "reasonable period" in the mind of the everyday Australian would be the time it takes from application to settlement of the loan say, up to 90 days? 60-90 days is the period of the most rate lock options so one could conclude this would be a reasonable time frame.*

The National Australia Bank owns Advantedge Financial Services which has two main functions in the market place it:

1. Is the finance (mortgage) broker aggregator group for PLAN Australia, Fast and Choice branded accredited loan writers.
2. Supplies funds to at least 23 Mortgage Managers through **this** distribution channel.

On the Advantedge website www.advantedge.com.au there is a preferred Lenders Website Login. The preferred lenders are the 23 mortgage managers to whom they supply loan funds to. If you ring the phone number on this website (03 8616 1000) to find a mortgage broker the customer service staff cannot directly refer you to any.

PLAN Australia is fully owned by Advantedge Financial Services. Their website details home brand products exclusively available to PLAN members. Number of brokers is approx 1500.

Choice Home Loans trustee and trading companies is a member of the National Bank of Australia. Choice have a their own home loan brand. They claim to have more than 1250 mortgage brokers on their team.

Fast has over 1500 mortgage brokers who aggregate through them. The FAST website states they are owned and supported by Advantedge.

To be an accredited loan writer (mortgage broker) with National Australia Bank a person needs to be a member of an aggregator group (this requirement is an industry standard demanded by all the major banks and many of the non major banks). The main competitor to Advantedge aggregation is Australian Finance Group who have around 2000 broker members.

Australian Finance Group has a home loan product that is funded via National Australia Bank.

A person who wishes to introduce loan business to National Australia Bank as an accredited loan writer (mortgage broker) is required to hold an Australian Credit Licence or be an authorised representative of a licensee, attend specific product and policy training sessions and be assessed by the National Australia Bank to be a person with whom they want to deal with. If the person jumps the hurdles the person is given an unique broker identification number and direct access to the NAB Broker website and they are then permitted to introduce business directly to the National Australia Bank via the third party distribution channel (Homeside) or directly to a branch.

The remuneration contract is between the aggregator and the National Australia Bank. Depending upon which aggregator the loan writer is a member of they may or may not be able to view the remuneration contract. Most loan writers sub-contract with an aggregator so they are not covered by Fair Work Australia as they are deemed to be self-employed and accept to do the work being aware of the remuneration structure.

The remuneration is based on the introduction of new business only so there is no payment made if the loan writer restructures and existing National Australia Bank client. Remuneration is called "commission" and normally consists of an upfront payment, a trail payment and a volume override payment.

The aggregator is paid the commission by National Australia Bank. The aggregator takes a percentage of the upfront and trail payments and the loan writer receives the rest or the aggregator may offer a flat fee model based on transactions.

If the loan writer provides the new business to National Australia Bank via its branch network rather than through its Homeside brand the aggregator is paid a lower remuneration. If the aggregator is selling National Australia Bank money via mortgage management or private arrangement then the aggregator receives a higher remuneration.

If the business introduced via Homeside does not stay on the bank's books for up to 24 months the upfront commission will be clawed back by National Australia Bank. 100% first 12 months and 50% second 12 months. No trail remuneration is paid in the first 12 months the loan is on the bank's books.

The National Australia Bank directly, not through the aggregator, sets policy and procedure that apply to all accredited loan writers regardless of which aggregator the loan writer is a member of. They set the up front and trail remuneration for the introduction of new business via Homeside on an industry wide basis.

The aggregators receive additional remuneration for the volume of new business introduce. As I understand the situation this remuneration is not shared with the loan writer nor is it clawed back and it may be negotiated on an aggregator by aggregator basis.

The majority of accredited loan writers are self-employed contractors and not employees being paid a wage.

Aggregator groups encourage loan writers to be authorised representatives rather than hold their own licence. Over 2000 brokers pay $139 plus GST a month to operate as a representative under Advantedge. Australian Finance Group has around 600 authorised representatives.

Recommendation:

That the productivity commission be asked to examine the current situation in the mortgage broking industry to establish whether the personal accreditation, aggregation and the concentration of major players is stifling competition not only between mortgage brokers themselves but at retail level in the selling of home loan products to borrowers. To consider whether the clawback provision is unconscionable as brokers are tied to contracts they have no power to negotiate the terms of as they are with a third party; the banks have the absolute power and use the "take it or leave the industry" attitude. Whether the individual accreditation system is really a masqueraded employment contract. The Australian Credit Licence was designed to cater for the large number of self-employed working as mortgage brokers however many obviously believe that it is easier to be a credit representative rather than a credit licence holder - is this a result of scare mongering, lack of effective NCCP *training and aggregators influence suggesting over compliance rather than what the legislation requires.*

It is apparent that Bankwest as an Australian bank ran out of money to fund its loan commitments to its customers due to a bank run on its deposits, a parent company in trouble and Basel II capital adequacy requirements.

Banks borrow from the capital markets to fund investments and cover operational expenditure. They do not need to borrow from the capital markets to expand the amount of money that is needed for economic activity. This is the endowment attached to having a banking licence.

Bankwest's failure demonstrates how vulnerable Australia's banking system is to collapsing in a very short period of time.

Using the current banking system there are two things that stop a bank from expanding their credit portfolio;

1. A fear that more depositors will call on them for a redemption of funds above normal anticipated levels and
2. Not having sufficient capital under Basel requirements to create money for lending to their customers.

The Reserve Bank of Australia acts as banker to the Australian government and is not a lender of last resorts to Australia's privately owned banks.

Through its market operations the Reserve Bank of Australia facilitates banks borrowing from and lending to each other on an overnight, unsecured basis. The cash rate is determined by the demand and supply of exchange settlement balances that commercial banks hold at the Reserve Bank. The exchange settlement accounts are not permitted to go into overdraft. The cheaper the cash rate is the cheaper money is for banks to borrow from each other.

If Bankwest was having a run on their deposits they would have had to use their capital reserves, call in loans, cancel undrawn loan balances and, or, borrow money to settle its exchanges with other banks.

I anticipate that a level of panic would have been created within the inner banking circle and this would compound their situation as word got out.

HBOS failing meant they could no longer create money in the way banking licences allow banks to do and that put them into a position of not being able to save their previously fast developing child.

If Bankwest was experiencing a run on its deposit funds this would have an effect on how much cash they had in reserve. With the dramatic drop in the share price any ordinary shares any they had in their Tier 1 capital reserve would have devalued very quickly. Without any HBOS parent support all of a sudden I anticipate that Bankwest could no longer create money to fund loans in the way a banking licence allows them to do and as a result many of their every day hard working Australian customers have been financially ruined.

If we look at the Big 4 and the Basel capital adequacy requirements we can see that any Tier 1 capital held in ordinary shares would also have diminished very quickly during the GFC. It makes sense that the government would take action to ensure that they all did not collapse at the same time so they enticed people to take their money out of other investments and put it into the "safe" banks so that the banks would have money to have enough money in the kitty to be called financially stable; that is meet their capital adequacy requirements.

The flow on effect from this was that hard working Australian's who were not persuaded to withdraw from other investments and, or had moneys tied up in superannuation funds had the value of their investments diminish very quickly.

The investors who stayed in the share market had the value of their investments diminish very quickly and the share market has not improved in part because most investors have lost faith in it.

During the GFC the Commonwealth Bank of Australia was lending money to developers. One of the requirements for approval at the time was they wanted a second exit strategy.

Prudential standards say for a standard eligible mortgage that a bank is required to revalue any property offered as security for such loans when it becomes aware of a material change in the market value of property in an area or region.

Property values fluctuate in cycles and if the banks were to do valuations for mortgage purposes in Melbourne and many other areas in Australia at the moment many of their mum and dad housing loan clients would be required to pay lenders mortgage insurance or take any saving they had and pay down their loans or be sold up. This would then cause a property market collapse and what a mess the country would be in.

In Australia our prudential standards protect the banks over their clients in all instances. That is why we have recourse loans. For the banks to obtain the capital adequacy concessions in risk-weighted assets for residential lending they are required to ensure that they have power of sale and a right of possession. A loan is technically in default if the repayment is not made on the due date. After 60 days of non-payment of the due repayment the bank has the right and ability to take possession of the property and sell it for what is considered fair market value and after 90 days they have to find more capital to hold as the borrower is in default.

There is a lot of confusion sometimes in why banks do what they do and sometimes they are only efficiently and blindly following the prudential standards set by the regulators and the Basel GURU's.

If the share market were to pick up and it looked like a bull market was a sign of the times it would increase investor confidence and before long many small investors would be taking their money out of the bank to invest in the boom of share values. This would in turn cause a run on the deposits the banks hold.

This may be considered as simplistic view of the banking world and there is much more about it that could be discussed if the senate committee were interested. The Basel prudential standards have no real regard for the operations of a real economy and market place.

Recommendation:

That the senate engage in and encourage an open and honest discussion and debate about the monetary and banking system to ensure that authentic and radical reform is possible. There is a lot more to discuss including whether the Reserve Bank of Australia is too close to the big 4 and therefore maybe the responsibility for monetary policy would be better placed somewhere else for them to manage rather than make and whether the people of Australia would be better served if it had a government owned commercial bank or at least a development bank.

The Commonwealth Bank of Australia has a policy that allows a residential mortgage loan borrower without much equity to provide a guarantor. The guarantor is required to own residential property which is used as additional security for the required loan.

This policy can result in the borrower avoiding the payment of expensive lenders mortgage insurance. The loan amount that is guaranteed is established as a second facility which limits the total exposure the third party is liable for. The guarantor is advised of the full financial position of the borrower and their credit history. The loan documentation indicates to the guarantor that the Commonwealth Bank of Australia in the case of default of the borrower will only call in the guaranteed amount that they have agreed to.

However once the loan has settled the guarantor is not allowed to know the ongoing financial position of the borrower. In a case I have recently witnessed the parents of a borrower agreed to be a guarantor for their son. He was employed. He had a responsible attitude to money and lived at home with them.

After a period of time the son started to become involved in activities that were not conducive to his financial stability. His parent found out that he had started to borrow sums of money from family and friends and they discovered the Commonwealth Bank had given him a personal loan of $15,000-. This changed his repayment capacity to manage the loan they were guarantors for.

They asked their son if he had a personal loan and his son denied any existence of it. When the parents asked the Commonwealth Bank if the loan existed they were informed it was none of their business due to privacy laws. The Commonwealth Bank over a further period of time advanced the personal loan twice more until it was $33,000- .

The son had an investment property that the Commonwealth Bank was using to secure an investment loan. This property had increased in value over a period of time however not enough to release the parents from their guarantee to the bank.

The son was not in default of his loan repayments however the parents were concerned that this may happen and now he owed an extra $33,000- that he did not when they agreed to go guarantor.

If the Commonwealth Bank has used an all moneys mortgage one could assume that the $33,000- personal loan debt, if it goes bad, will be secured by the investment property and then that equity is not available to be put towards the loan the parents guaranteed. If the property when sold is insufficient to cover the debts then the guarantors will be called upon to make up the shortfall.

The parents have been placed into a predicament that they cannot escape from as a result of their son's and the Commonwealth Bank's actions.

Recommendation:

That an investigation of banks advancing further funds without due regard to how the increased borrowing effect the "blind" guarantor is initiated.

The is a lot of hype in the market place and spouting that unhappy loan customers should "talk with your feet". This attitude is irresponsible, reckless and apathetic.

Some truths that need to be considered are:

1. Banks have tight credit policy and really only want as close to risk free borrowers as possible to apply for loans with them.
2. Banks do not apply any priority to clients that are leaving them - National Australia Bank has been renowned for a long time for not releasing a mortgage to enable a refinance to be booked for 20 working days after receiving the signed mortgage discharge authority.
3. Banks offer "come to us" deals that include moneys to cover part of the refinance cost and special interest rates for high level borrowers with lower loan to value ratios. If a borrower takes option the new lender then may not pass on the full RBA cash rate reduction or they may apply a higher margin for cash rate increases and the "unhappy customer" has been conned and are no better off.
4. Banks to protect their position instruct valuer's to complete valuations "for mortgage purposes" in other words fire sale value rather than fair market value.
5. Lenders mortgage insurance covers a particular lender against a particular borrower's default, assessed at a particular point in time and the policy cannot be transferred to a new lender.
6. Making enquiries to obtain a loan can have an negative impact on credit scoring mechanisms some banks use and may cause a potential borrower to be automatically declined even if they are extremely credit worthy.
7. One of the impacts of the NCCP has taken products out of the market place and "unhappy customers" are stuck.

Recommendation:

That an investigation is undertaken to determine if banks are using existing laws to avoid being competitive and answer why is it all about responsible lending and nothing to do with responsible borrowing.

In conclusion I am adding comment to the Commonwealth Bank's treatment of Bankwest customers and the horror stories that are being told. I am confident that a lot of what has been said to have happened will be proven to be true.

The Commonwealth Bank as a lending institution has the right to approve or decline any loan that they consider is within or outside their appetite due to economic conditions at any particular point in time. This I believe is not in dispute.

At the time of the Commonwealth Bank takeover of the State Bank of Victoria I was employed at management level and was sought after for advice on systems and procedure differences between the two organisations, integration training of State Bank staff and auditing of branches to identify and fix operational issues.

Some of the negative consequences of such a large organisation taking over a much smaller one come from human power games, misunderstandings due to differences of policy and procedures, and major decision makers considering their own interests over anyone else.

In a healthy economy a bank may want to lend to property developers, hoteliers, moteliers, aged care providers and childcare providers. However, it is considered that in an economy that is weakening all these types of business proposals will be hit in the hip pocket and are therefore seen to pose a greater risk of not being able to reliably function well.

All bank loans are approved on the basis of anticipated future access to money. This could be through income, guarantors coughing up or the sale of assets.

This futuristic money will be used for payment of agreed to regular instalments and the retirement of the debt at some future agreed to time...

...and then you have inadequate laws such as the NCCP, FSRA, Australian Competition-Fair trading, and the prudential standards...

... banks have no commitment to moral or ethical values...

...so all things considered what has and is happening all makes perfect sense.

Maria Rigoni