

EXECUTIVE OFFICE



29 June 2021

Senator Andrew Bragg
Department of the Senate
Parliament House

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Dear Senator Bragg

Inquiry into Australia as a Technology and Financial Centre – third issues paper

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to provide a submission to the Senate Select Committee on Australia as a Technology and Financial Centre third issues paper.

The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses and the Australian community. The primary responsibilities of the ACCC is to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the *Competition and Consumer Act 2010* (CCA), regulate national infrastructure and undertake market studies.

The ACCC also has a dedicated Financial Services Competition Branch, which under the direction of the Treasurer, may undertake market studies into competition issues in the financial services sector.

This submission focuses on the ACCC's involvement on issues relating to 'de-banking' and the policy environment of neobanks in Australia.

De-banking

De-banking has the potential to be a significant threat to competition. The ACCC looked at de-banking extensively as part of its inquiry into the supply of foreign currency conversion services in 2019. While that inquiry was specifically in relation to the supply of foreign currency and international money transfer (IMT) services, we are also aware of concerns raised in the media and by stakeholders regarding de-banking elsewhere in the financial services sector.

ACCC's foreign currency conversion services inquiry

The ACCC's 2019 inquiry into the supply of foreign currency conversion services in Australia found that de-banking was a significant issue for non-bank IMT suppliers.¹

Non-bank IMT suppliers often rely on access to banking and payments services from their vertically integrated competitors (banks) to compete for the supply of IMTs to consumers. For example, non-bank IMT suppliers require a bank account to receive payment for IMTs from their customers. They also require access to payment services, either through a bank account or by access to payment system infrastructure, to make outward IMT payments for their customers.

Some non-bank IMT suppliers have been denied access to bank services or have found access to bank services under threat. In the examples we considered in the inquiry, the need to comply with Australia's anti-money laundering and counter terrorism financing (AML/CTF) laws has been a factor in the banks' decisions to withdraw access to banking services for non-bank rivals. However, inherent to issues relating to de-banking is the difficulty in distinguishing between accounts being closed due to legitimate AML/CTF concerns, and accounts being closed for anti-competitive reasons.

The ACCC's inquiry found that in particular, de-banking and the prospect of de-banking raise costs for both of the following groups:

1. New IMT entrants seeking to secure banking services

These costs, or the inability to secure banking services, can act as a barrier to entry and therefore threaten competition.

2. Existing non-bank IMT suppliers

These costs include potentially high compliance costs to maintain access to bank services. These additional costs can hamper non-bank IMT suppliers' ability to price services competitively and win customers, especially given bank IMT suppliers do not face these same costs.

In the final report of the ACCC's inquiry we recommended the Australian Government form a working group tasked with consulting on the development of a scheme through which IMT suppliers can address the due diligence requirements of the banks or providers of payment system infrastructure, including in relation to AML/CTF requirements.

We consider that a due diligence scheme would help address the competition issues arising from de-banking by facilitating more efficient and continued access to banking services and payment system infrastructure for non-bank IMT suppliers.

If a due diligence scheme is implemented, non-bank IMT suppliers who have a satisfactory due diligence assessment could inform the ACCC if they:

- are denied access to banking services
- are denied access to a New Payments Platform direct participant's payment gateway, or
- have existing banking services withdrawn.

¹ <https://www.accc.gov.au/focus-areas/inquiries-finalised/foreign-currency-conversion-services-inquiry>

The ACCC has investigated potential breaches of the CCA arising from allegations of de-banking in the past, however none of the investigations established a breach of the CCA. The establishment of an effective due diligence scheme would more easily allow the ACCC to examine whether the denial or withdrawal of banking or payment services raises concerns under the CCA.

Following the ACCC's report, the Government announced it would establish a taskforce to consult with all relevant stakeholders and report back with further reform options in relation to de-banking.² In June 2021, the Council of Financial Regulators also agreed that agencies would undertake further work to explore the underlying causes of de-banking and examine possible policy responses.³

Neobanks

In recent years we have seen some signs of increased competition in the banking sector; most notably in home loans and international money transfers. These signs of emerging competition include new entry from a range of neobanks and fintechs, who are playing an increasingly important role in the market. However, we are equally aware of the potential for competition to be reduced or stifled if innovative new entrants are acquired by incumbent firms.

The ACCC has a role via its mergers function to assess whether any acquisitions are likely to substantially lessen competition, this includes assessing acquisitions involving neobanks.

As noted in the issues paper, there have been two neobanks that have recently exited the market: Xinja ceased its retail banking operations; and 86 400 was acquired by NAB following a public merger review and clearance by the ACCC (see below).

We do not see these particular market exits as indicative of competition substantially lessening, nor detracting from other signs of increasing competition we are seeing in the banking sector. For example, the exits do not appear to have deterred new entrants, with APRA Chair, Wayne Byres observing in March 2021 that APRA is considering licensing applications from upwards of a dozen ADIs.⁴ In addition, Judo (a bank focused on SME lending that was licenced around the same time as Xinja and 86 400) has built a loan book of over \$2 billion and has reportedly raised over \$500 million in equity to fund operations and growth.

The ACCC will continue to closely scrutinise any proposed acquisitions of emerging competitors or current challengers, particularly acquisitions by major banks.

86 400

In March 2021 the ACCC announced it would not oppose NAB's acquisition of 86 400.

The ACCC examined the proposed acquisition particularly closely, including extensive consultation with industry participants, given the potentially important role of the innovation introduced by new entrants like 86 400. The ACCC's consultation included banks, non-bank

² The Treasurer Hon Josh Frydenberg MP, [ACCC finds consumers are paying too much in foreign transaction fees](#), [media release], 2 September 2019, accessed 25 June 2021.

³ Council of Financial Regulators, [Quarterly Statement by the Council of Financial Regulators](#), [media release], 17 June 2021, accessed 23 June 2021.

⁴ APRA (Australian Prudential Regulation Authority), [APRA Chair Wayne Byres - Speech to the 2021 AFR Banking Summit](#), [speech], 30 March 2021, accessed 21 June 2021.

lenders, fintechs, mortgage brokers, industry and consumer bodies among others. Most interested parties raised no or limited concerns with the transaction.

Market feedback indicated that while 86 400 is innovative, particularly in reducing the time and effort in completing home loan applications, there are a number of other businesses with similar offerings or the ability to replicate them. These other competitors which include several banks and non-bank lenders outside of the big four banks continue to bring a similar disruptive influence to the market as they invest heavily in their technology and service offering to improve user experience.

Xinja

After entering the market in 2017, Xinja exited the market in early 2021 by withdrawing its transaction and savings account products and returning its ADI licence. Xinja returned almost 100% of its customer deposits to customers and the remainder was transferred to NAB by opening new accounts in the customer's names.

The ACCC was consulted by APRA throughout this transfer process in relation to any competition concerns.

We would welcome the opportunity to discuss our submission further.

Yours sincerely

Rod Sims
Chair