Senate Committee Enquiry Competition within the Australian banking sector

Supplementary Submission
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People need a reason to switch banking provider.

Switching for switching sake will drive the price of banking up.

A competitive market place needs:

- People who are seeking a solution to a need
- People who are eligible to make a purchase
- People who have the financial ability to purchase
- People who can authorise a legitimate purchase.

Together with

A product manufacturer who is able to satisfy the solutions sought by the buyers.

Portability of Bank Account Numbers

A mobile phone number is a contact mechanism which a person will advertise in a number of ways.

It can be very expensive to change the number if it is advertised in print and it is easy for people to lose contact with someone if they have not received the new contact number.

Mobile phone number portability makes a lot of practical sense for individuals and businesses.

It is not the same for a bank account.

There are normally two components of bank account detail:

1. BSB = Bank State Branch number and
2. The account identification number the last digit of the account number is a check digit to confirm the account is real.

These work together to identify where a person's money or debt is held in the Australian Banking system.

It identifies the organisation, the location, the type of account and the account holder.

Portability of an account number will not make people "move bank".

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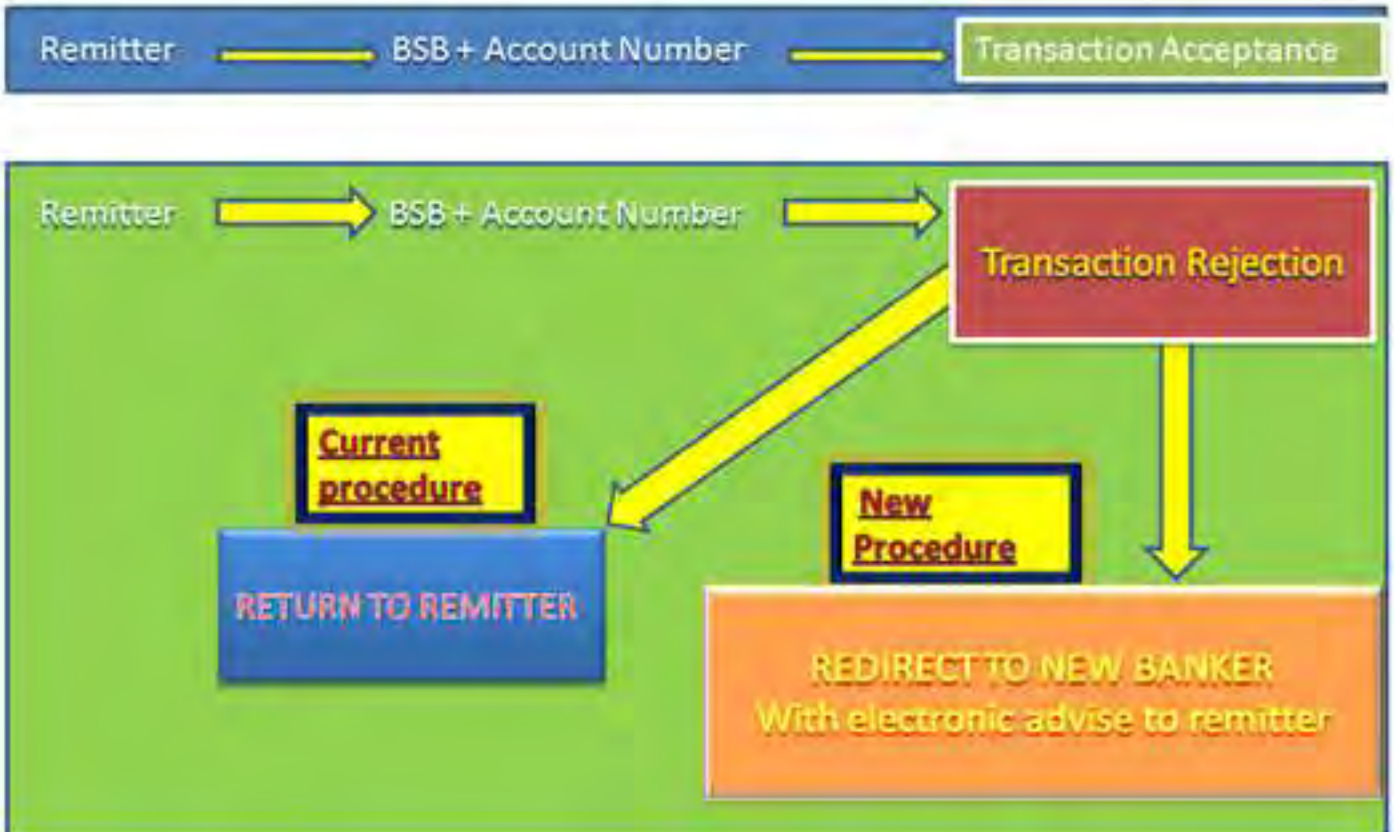
DIRECT DEBITS AND CREDITS – SIMPLE SOLUTION



A competitive market place is supposed to produce higher quality product and services, <u>wanted by consumers</u>, at a cheaper price.

Authorised Deposit-taking Institutions (ADI's)

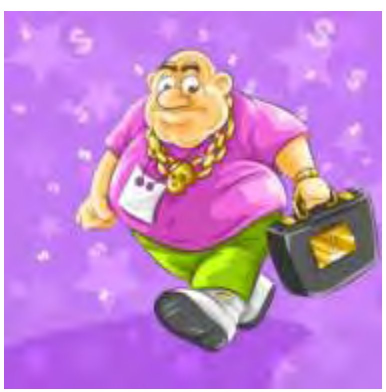
ADI's **<u>Sell Deposit and Loan Products</u>**

ADI's are allowed to lend much more money than they have provided they follow capital adequacy requirements (expansionary lending.)

Non ADI

Non ADI's **<u>Sell Loan Products</u>**

Unlike banks non-ADI lenders must obtain money from investors or have their own capital or they can not lend (pure lending).



Independent Finance Brokers **<u>sell a loan finding service</u>**

They find loan products available in the market place for people wanting to borrow money.

Independent Finance Brokers can be a very important conduit of competition.

<u>That is why the banks want them eliminated!</u>

Lender's Mortgage Insurance (LMI)

The policy price is the problem for borrowers.

$300,000- and $500,000- are magical figures for premium increases.

Money needed to purchase Established Home no FHOG		Money comes from where?	
Purchase Price	$ 530,000.00	95% Loan	$ 503,500.00
Government Fees	$ 25,222.00	LMI capitalised on loan max 97%	$ 14,100.00
Conveyance /establish say	$ 1,500.00	**Total loan**	**$ 517,600.00**
Lenders Mortgage Insurance ANZ	$ 21,744.00	**Savings needed**	**$ 61,000-**
Total money needed	**$ 578,466.00**	**Total money available**	**$ 578,600.00**
		Total money needed	**$ 578,466.00**
From $61,000- in savings equity in property at settlement = $12,400-		***Surplus***	**$ 134.00**

Money needed to purchase Established Home no FHOG		Money comes from where?	
Purchase Price	$ 530,000.00	94.34% Loan	$ 500,000.00
Government Fees	$ 25,222.00	LMI capitalised on loan max 97%	$ 14,100.00
Conveyance /establish say	$ 1,500.00	**Total loan**	**$ 514,100.00**
Lenders Mortgage Insurance ANZ	$ 15,945.00	**Savings needed**	**$ 59,000.00**
Total money needed	**$ 572,667.00**	**Total money available**	**$ 573,100.00**
		Total money needed	**$ 572,667.00**
From $59,000- in savings equity in property at settlement = $15,900-		***Surplus***	**$ 433.00**

ANZ, CBA, NAB and Westpac clients are not entitled to refund of LMI premium.

CBA, Westpac, St. George, ING Bank and ANZ all have their own LMI product.

As captive insurers, the banks provide LMI coverage only to their own loan portfolio and retain profits which would otherwise flow to an external LMI provider

Lender Mortgage Insurance

Borrower pays the lender’s policy premium for:

- The risk of insuring the credit provider in respect of the loan
- The risk of default by the borrower on the loan (if insured by the Insurer)
- The risk of the security property not covering all the “loss” incurred.

<u>The policy cannot be transferred by a borrower as the insurance contract does not belong to them.</u>

The borrower remains liable to the credit provider for any amounts owing under the contract.

Tell Me the True Rate of Interest

What is the starting rate?

7.80% - .70% = 7.10%
7.50% - .70% = 6.80%
7.76% - .70% = 7.06%

No problem with having market power but when does using market power become abuse?

Does a small business person have the legal measures to ensure healthy competition? "Substantially" and "too small to deal with" protects the big guy – the little guy cannot engage fairly!

Loans Who's Who

Credit Provider
Manufacturer and retailer of wholesale and retail credit products to sell to businesses and consumers.
Function is a lender.
Has borrower clients.

Consumer – Any Type of Borrower

Mortgage Manager
"Branded" wholesale money sold as retail loan products.
Function to sell and manage loans for a particular lender.
Has borrower clients.

Paid Referrer
Introduces loan leads to lenders, mortgage managers and some finance brokers.
No borrower clients but gets paid.

Independent Finance Broker
NO LOAN PRODUCTS OF THEIR OWN.
Has borrower clients

Aggregator
Finance Broker member organisation who has remuneration contracts with credit providers
No borrower clients but gets paid.

Smoke and Mirrors in the Distribution Channels

If a Mortgage Manager can not compete on price then they need to offer something else that is more valuable to a consumer or they will disappear from the market place

The major players own and provide money to:

- ⇨Branch Networks
- ⇨Wholesale Funders
- ⇨Mortgage Managers
- ⇨Aggregators

Aussie Home Loans & Yellow Brick Road are a brand name authorised to sell someone else's money. Due to advertising they are seen by consumers as lenders

Mortgage Managers technically are not Non-Bank Lenders they are an intermediary between the lender and the borrower

A Finance Broker may be a specialist in one or a combination of :

- Consumer Finance
- Residential and Commercial Mortgage Finance
- Asset and Equipment Finance
- Commercial and Business SME Finance
- Big Business Finance

Mortgage Managers and Finance Brokers are often both called Mortgage Brokers even though they have different functions in the market place.

Mortgage Manager Deferred Establishment Fee's & Finance Broker Commission Clawback

Only exist due to the imbalance in negotiation ability of the weaker party to achieve a fair deal in remuneration contracts.

The commercial risk of not keeping a completed transaction on the books for a period of time is transferred from the from the stronger party to the weaker party.

The stronger party understands that the consumer in the end will pay more for not dealing directly with them.

Take it or leave it… and I can make is worse for you anytime… by just letting you know my new terms.

Why don't you forget being paid by us. Just do the work, give us the business and charge the consumer a fee for service!

Competition Illusion

Retail Price to consumer via ING Direct is currently from 6.96% pa

ING Bank command 6.75% pa net return on funds advanced to a mortgage manager.

THE WHOLESALE RATE CHARGED BY THE MAJOR PLAYER IS TOO EXPENSIVIE FOR THE MORTGAGE MANAGER TO COMPETE WITH THE BANK'S RETAIL ARM

The accreditation system allows the Major Banks to inappropriately interfere in a competitive market

Australian law supports inappropriate interference rather than fair competition

Finance Brokers prequalify borrowers for finance from a range of product sellers
Rate Comparison websites <u>do not</u>

Finance Brokers are reported to be the preferred distribution channel for 40-50% of borrowers

A new home!
We need a
suitable loan and
someone to guide
us through the
whole process

Yes, we do not
need to be just
sold products

Too much competition for major banks to handle so they are buying up big broker groups and eliminating many small operators!

Aussie Home Loans became a Finance Broker to save themselves from the competition being applied to them by finance brokers!

With fair dinkum competition happening Finance Brokers Function as Independent Analysers

Lender made accountable for shoddy service

Lender made accountable for policy discrimination

Lender made accountable for product inadequacy

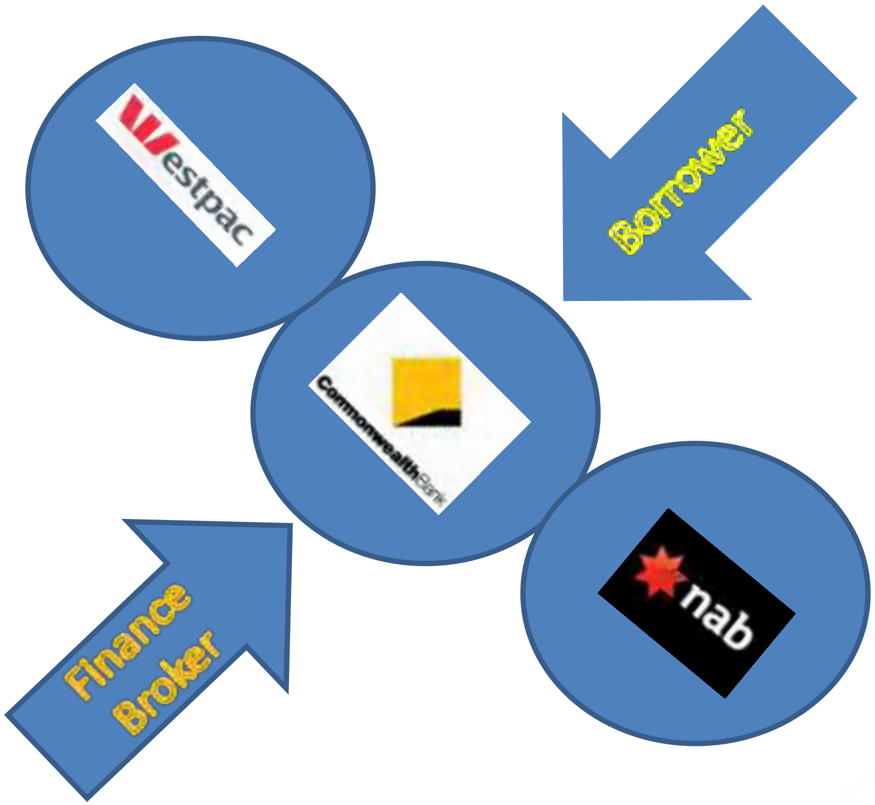
Lender made accountable for product price

Finance brokers are no longer able to provide an effective market research service due to credit provider volume requirements which need to be met to hold accreditations to introduce business.

You will give me more business for less and less remuneration and do not talk to me or anyone else about our product quality or price or service levels. Discussions about our responsibility to provide that is off limits. We control the finance broker market not you!

You will work full time out of a commercial office and any other way we tell you to or you will be out of the industry!

How do I stay independent to look after consumer requirements when the banks are offering to do business on such unrealistic and unfair terms?



I know I helped you to obtain that great loan to buy your home but now I can not access the same products from that provider even though my skills and knowledge are the same.

You will need to go directly to the branch or find a finance broker that gives the lenders enough business to retain their accreditations.

You and I both are no longer free to deal with each other.

This apparently is OK under Australian Law. The law considers it not against good conscience just "Tough Bargaining" by a bigger player.

Volume Quotas – Freedom of Choice

The Major Players have introduced restrictions on another's freedom to choose what they can buy, from whom and at what price. This conduct safeguards inefficient business from competition at the expense of efficient operators attempting to bring competition to the market place.

Financial Crush a Class of Efficient Competitors

Predatory Pricing of Outsourced Tasks

Independent Finance Brokers are often expected to process work for the Major Players for no remuneration

Australian law says this is ok because the broker signs a commercial contract to allow it. If they do not like it they can choose a different career.

ECONOMIC DURESS: NO FAIR WORK AUSTRALIA FOR FINANCE BROKER CONTRACTORS. THREATS TO A FINANCE BROKERS ECONOMIC WELLBEING, THEIR BUSINESS AND THEIR TRADE DO NOT COME INTO IT

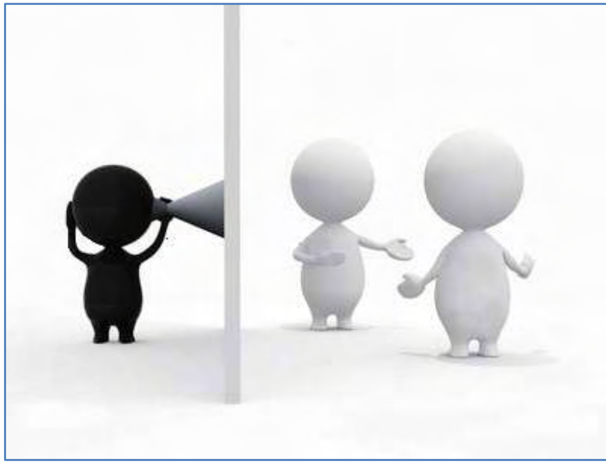
ING BANK CommonwealthBank ANZ nab Westpac

The Initiators of lower remuneration and volume quotas

Bank Inefficiency

1. Took too long to assess and fund loan. Property contract fell through resulting in opportunity to gain bargain price property gone. Two loans also switched without authority to a higher interest rate product and promised discount of .7% not applied.
2. Consumer credit contract one security property omitted. Consumer made solely liable for a joint debt when partnership dissolved.
3. Fixed rate locked in not applied.
4. “The $100,000.00 chq has bounced. The approved top up has not been funded as promised. The agent is refusing another chq as this is the second time it has bounced. We are in serious breach of the sales contract.”
5. Loan docs posted to incorrect address, reissued with incorrect information and sent to different incorrect address, reissued to a third incorrect address.
6. Instruction to set up off-set account with large balance of not applied on system .

Collusion Vs. Coordination

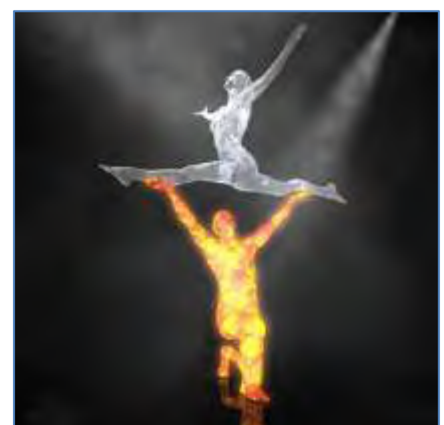


Collusion:

Conscious similar behaviour intended to eliminate competition whether “Explicitly” or “Tacitly”

Tacit Coordination:

Behaviour that is similar to collusion however not intended to eliminate competition.



The MFAA Board's held an Industry Roundtable on April 28, 2009 to consider all the key issues confronting the mortgage industry.

22 representatives of aggregators, mortgage managers and lenders met, to discuss industry issues, including lender service levels, broker submission quality and competition.

My request to attend as a Finance Broker was refused.

Both MFAA and FBAA membership base is made up of credit providers, mortgage managers, aggregators and finance brokers.

The AIPB was founded as finance brokers were calling for an industry body that would address their issues as a main focus.

In the residential mortgage space finance brokers are required to be a member of the MFAA or FBAA to become a member of an aggregator and to gain lender accreditation.

The major lenders and aggregators would not recognise the AIPB as industry body for accreditation purposes.

Tacit collusion can be an effective means to attain high profits and market sharing without breaking competition laws. Those involved may stay within the law but collude tacitly.

Policy with CBA (modified 21/02/2011), Westpac, and ANZ for a 95% loan is the consumer must have an active credit account with them for a period of 6 months OR THEY WILL BE REFUSED A LOAN.

CBA Westpac and ANZ have silently agreed not to approach the others' customers. They are limiting their sales to their existing credit clients only.

To say it a different way, 3 major housing loan providers were agreeing to play a certain strategy without explicitly saying so.

Each firm seems to be acting independently, perhaps each responding to the same market conditions, but the end result is the same as an explicit agreement with an effect of limited competition.

Positive Credit Reporting is about
PROFIT MAKING

Poor capacity to sell more products to and likely to **shop** around

Good capacity to sell more products to and likely to stick around

The NCCP Act 2009

The Big Banks are loving it. "We are being responsible lenders."

Never before have they been given so much power to discriminate against responsible borrowers; taking the cream and charging some higher interest rates under the guise of "return for risk"

Aggregators use compliance scare tactics to charge around $150 monthly for finance brokers to be a "tied" authorised representative.

Australian Securities Limited (ACL 260499) recently required a cancellation fee of approx $110,000- for not proceeding with a loan application. The fee was locked in through a welcome call.

Most borrowers do not need protecting from themselves!

Most borrowers do not know the purpose of borrowing makes them a consumer!

Consumer are scratching their heads wondering what they have done wrong.

Valuable consumer products demised;

- 100% home loans
- Low Doc loans
- Reverse Mortgages
- No Doc Loans
- Security servicing G/-

Most consumers want to use their assets to borrow for legal purposes without government intrusion!

It is said by "Aussie" that the overly burdensome regulation requirements will ultimately force part-time brokers out of the industry altogether.
"At the end of the day, it will be the likes of us the bigger players that can not only withstand the changes, but are strong and able to compete in the new regulated environment."

The credit provider assesses the ability to repay and the reputation of the borrower in the same way for all these borrowers whether they are self employed or PAYG wage earners.

The majority of the risk is worn by the borrower not the credit provider. It is the borrower who looses their equity first and may owe a debt even if they no longer own the property the borrowed money was used for or if the value of their property diminishes.

Individual Borrower	Credit Purpose	NCCP Applies	Loan Amount	Real Property Security Value
Harry	Personal	☑	$250,000	$500,000
Sally	Residential investment property	☑	$250,000	$500,000
Jack	Investment in debt and equities products	☒	$250,000	$500,000
Jill	Business	☒	$250,000	$500,000

If Harry or Sally loose their job they <u>may</u> get repayment relief assistance.

If Harry or Sally repay their loan early they will not be charged a DEF from 1 July 2011

If Jack or Jill loose their job they are treated differently.

Major banks will charge Jill a higher interest rate and fees as the purpose is business

“Rate for Risk” – is a Sham

- Low Deposit loans are mortgage insured – the borrower pays a large amount of cash for a policy to protect the lender in the case of borrower default
- A self employed borrower can obtain a loan for personal expenditure at a cheaper rate than for business purposes when using the same residential property as security. The income documentation required is the same.

Recommendations

- That the government looks to bring some balance into the Australian Consumer Law Act 2010 for the little business guy.
- That redirection of electronic direct credits and debits is considered rather than making bank account numbers portable.
- That an inquiry is completed into how the large players in the finance industry treat small players and the effect this has on a competitive market.
- An inquiry is completed into Lenders Mortgage Insurance (LMI) operation in Australia. Establish whether the premium price is an honest reflection of the expenses and costs associated with running the insurer's business in Australia. Investigate if the borrower should be responsible for full payment of the premium.
- Give consideration to establishing a government owned LMI business.
- That the real purpose and effect the Positive Credit Reporting system on the lives of every day Australian and is identified and appropriate action taken to ensure consumers do not have to plan their life around it.
- Make Banks accountable to their clients for inefficient processes. Fair honest and efficient needs to be clearly defined in our laws.