

Senate Select Committee on Financial Technology and Regulatory Technology

Written Questions on Notice

ACCC

In light of the dramatic changes in the economy in recent weeks due to the COVID-19 pandemic, the committee would be grateful if ACCC can provide a brief update on its activities and priorities at this time in relation to the FinTech and RegTech sectors.

In particular:

- What is ACCC doing to maintain and promote competition in the financial services sector at this time?
- How is the current crisis expected to impact on the rollout of the Consumer Data Right?
- What regulatory and practical support is ACCC offering to market participants in the financial services sector at this time?
- How is the ACCC ensuring that adequate protections are in place for financially stressed consumers in relation to financial products and services?

ACCC response

1. The ACCC is working with a range of participants across the financial services sector to maintain and promote competition in the context of the current public health crisis both now and importantly in the future as we emerge from the COVID-19 crisis.

We have a dedicated branch that is focussed on competition issues in the financial services sector, which it analyses through targeted inquiries, investigations, enforcement cases and advocacy. We are currently conducting an inquiry into home loan pricing at the direction of the Treasurer. This report will analyse what factors deter consumers switching between banks in response to a better deal. This work will be critical to ensuring that when this crisis subsides, smaller banks and fintechs who are offering better deals, can attract customers and compete vigorously on a more level playing field. The ACCC's interim report was released on 27 April 2020 with the relevant media release here <https://www.accc.gov.au/media-release/maintaining-profitability-important-in-big-banks%E2%80%99-interest-rate-cut-decisions>.

In the current circumstances, competitors in the financial services sector may need to cooperate with each other and coordinate some aspects of their operations. This kind of collaboration between competitors would ordinarily give rise to concerns under competition law. The ACCC's authorisation process enables it to suspend the operation of competition law in relation to such collaboration where the public benefit outweighs any detriment.

In late March 2020, the ACCC granted two interim authorisations to the Australian Banking Association, on behalf of its member banks, to enable it to coordinate their responses and implement uniform rescue packages for businesses and consumers. On 8 April 2020 the ACCC also granted interim authorisation to the Australian Securitisation forum to enable its

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members, which include ADIs, both large and small, as well as a number of FinTechs, to exchange information and develop a coordinated industry response to the implementation of the Structured Finance Support Fund (SFSF).

The ACCC has commenced public consultation on both of these authorisations. This consultation process will ensure that the conduct we have authorised is not causing unnecessary or unintended consequences, particularly for smaller players in the market, including fintechs.

The ACCC is also pushing forward with the Consumer Data Right initiative, as outlined below.

2. With the COVID-19 operating context in mind, the ACCC continues to progress the roll out of the Consumer Data Right. There has been widespread disruption to the work of Consumer Data Right teams across all participants due to social distancing requirements, including travel restrictions and requirements to work from home, causing some loss of productivity and temporary delays. Despite those impact, the ACCC and its technology provider are nearing completion of development of the Consumer Data Right Register & Accreditation Application Platform, and it will still be ready before July, in time to permit data sharing to commence in July 2020.

Some Data Recipients have reported challenges maintaining or securing funding to continue their work on the Consumer Data Right, inability to progress technology development (especially where they were relying on Information Technology resources in other countries more severely impacted by COVID-19), loss of key clients due to COVID-19 related issues, difficulty obtaining Information Security Control Audit Certificates due to travel restrictions in Australia or overseas, and competing business priorities. Some Data Recipients have had to pause their work on the Consumer Data Right for the time being, while others have expressed a wish to press ahead without delay.

Data Holders (major banks) have reported that they have expended significant efforts to respond to the very great economic impacts of COVID-19 with rapidly rising unemployment and falling business cash-flow. Those economic impacts have required handling significantly more customer enquiries and applications, increasing lending activity, proactively introducing measures to support customers impacted by COVID-19 related issues, and assisting implementation of government support packages. They have each reported widespread and rapid reallocation of resources to areas of need. In response to a prediction of heightened cyber-security risk to the banking sector as the health impacts of COVID-19 peaked, based on experience in other countries, cyber-security resources were temporarily reallocated by banks from their Consumer Data Right projects to prevent and mitigate those anticipated threats. To reduce the risk from technology change at a time of strained resources, major banks also reported temporarily freezing non-essential technology changes.

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Recognising that the situation with COVID-19 will continue to evolve, the ACCC is continuing to work with participants, Treasury and the Government on the roll out of the remaining elements of the CDR. At this stage, the ACCC expects there will be a limited impact to the current schedule, and still expects sharing of consumer data to commence during July 2020.

Other than introducing sharing of consumer data, all banks have obligations to share Product Reference Data from 1 July 2020. The ACCC has received a number of requests for temporary deferral of that obligation from non-major banks due to the impacts described above. The ACCC has granted a number of temporary exemptions that have the effect of deferring the obligation of non-major banks to commence sharing product reference data from 1 July 2020 to 1 October 2020. Further information about the exemptions is available on the ACCC website: <https://www.accc.gov.au/media-release/temporary-exemptions-under-consumer-data-right>.

3. The ACCC is cognisant of the demands on market participants at this time.

The ACCC has established an internal COVID-19 Taskforce which is communicating directly with businesses across the economy to educate them about their obligations in relation to cancellations, refunds and suspension of services as a result of COVID-19. The ACCC continues to raise awareness of COVID-19 scams, which pose a risk not only to consumers but also to businesses in the financial services sector.

In our enforcement and inquiry-based activities, the ACCC is minimising regulatory burden by carefully considering the scope and timing of statutory notices for the production of information and documents. The ACCC is minimising the use of compulsory examinations, and where they are necessary we will conduct them by phone or video conference.

The ACCC is working with industry is in processing COVID-related applications for authorisation on a compressed timeline. This provides businesses with certainty about their position under competition law when they are dealing with their competitors to respond to the current crisis, and the ability to do so on an interim basis means that we can often form a view within 48 hours.

4. Questions that are specific to consumer protections for financial products and services are best directed to ASIC as its remit is to enforce and administer consumer protection laws for financial products and services.