



P: 1300 722 128  
 T: (07) 5592 0933  
 F: (07) 5592 0178  
 W: www.libertyfinance.com.au  
 E: admin@libertyfinance.com.au  
 ACN: 09 132 658

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Mr Craig Thomson MP  
 Chair  
 Standing Committee on Economics  
 PO Box 6021  
 House of Representatives  
 Parliament House  
 CANBERRA ACT 2600  
 AUSTRALIA

Dear Mr Thomson

I work in a mortgage broking business helping people who live in your electorate and obtain home loans suitable for their needs amongst competing products.

The States have agreed to transfer their powers to regulate mortgage broking to the Commonwealth. The Federal Government's Green Paper says work on developing these regulations will be assisted by a draft bill to regulate mortgage broking previously agreed by State Ministers for Consumer Affairs. I am writing to advise you how homebuyers would be adversely affected by three major defects in that draft State legislation. This is a major housing affordability issue as brokers have originated about 40% of the value of all current home loans.

The first defect is that brokers would be required to independently determine a borrower's capacity to make repayments. That function is properly the role of the lender. The US sub-prime crisis demonstrated the folly of lenders not being responsible for credit checks. Requiring brokers to duplicate credit checks would result in significant additional costs to homebuyers.

This has an anti-competitive dimension as it would, by definition, prohibit brokers arranging low doc loans. Under the draft legislation banks are exempt from this requirement, effectively granting them an exclusive right to offer this type of loan product. People who need low doc loans, like small business operators and families relying on part-time and casual employment, would be denied the services of a broker to choose a suitable loan amongst competing products. Instead, borrowers will only be able to deal with a bank selling their own products and not acting for the borrower as a broker does.

The second defect is the provision to give borrowers the right to seek a stay of enforcement of their mortgage against the lender if the borrower has a dispute with their broker. This interference with lenders' security will: increase the risk premium required by lenders resulting in higher interest rates; increase the premiums on Lenders Mortgage Insurance paid by first home buyers; and increase Professional Indemnity Insurance premiums paid by brokers thereby increasing the cost of broking services.

The third defect is the substantial increase in documentation that must be produced by a broker. This would provide little of value to homebuyers but significantly add to their costs. It is important not to repeat the mistakes with Financial Services Regulation that added so much to costs that many people were priced out of the market for advice from financial planners.

Postal Address:  
**PO Box 8052**  
**GCMC Qld 9726**

Office Address:  
 Suite 1 Rodman Centre  
 11 Karp Crt  
 Bundall Qld 4217



Like most people who work in the mortgage broking industry, I believe that regulation is necessary to ensure high standards of service to borrowers and provide a mechanism to remove from the industry any operator who is incompetent or dishonest.

An effective and efficient regulatory regime should require brokers to:

- be registered;
- have appropriate qualifications and experience, such as a Certificate IV in Financial Services (Finance/Mortgage Broking) or equivalent;
- enter a written contract to act on behalf of the borrower, specifying the type of loan sought and setting out the broker's remuneration;
- hold adequate professional indemnity insurance; and
- be a member of an external dispute resolution scheme to give borrowers access to an inexpensive and efficient mechanism for resolving complaints.

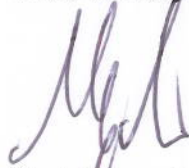
Mortgage lending is a highly competitive industry with many brokers operating across State boundaries. Even small regulatory differences between States interfere with the efficient delivery of mortgage finance and increase costs to borrowers. For this reason any regulation of mortgage broking should be a Federal Government responsibility.

Brokers play a critical role in a competitive mortgage market subjecting every one of the loans originated through them with either a bank or non-bank lender to independent price scrutiny and comparison with competing products. Loans originated by a bank branch are not subjected to this process of independent comparison. Bank staff should be required to inform loan applicants that they are acting for the lender and not the borrower, and that they are not able to provide independent advice about whether a bank loan is the most appropriate for the borrower relative to other available competing products. In the same way that brokers will be required to disclose the fees and commissions they receive, bank staff should be required to disclose to loan applicants any incentive based remuneration.

Borrowers from either banks or non-bank lenders will benefit from an efficient, competitively neutral mortgage broking regulation regime which provides them with appropriate consumer protection without adding unnecessary costs to brokers and, ultimately, to borrowers.

These are important issues for the homebuyers our business assists by arranging finance. I would appreciate your response so that I can assure clients that you do not support inclusion of the defective State proposals in the federal regime for mortgage broking regulation. I would also ask you to inform me of the response you receive to any representations you make to the Government on these matters.

Yours faithfully



Mark Edwards Dip FP Dip FS C Dec  
Director