

Banking Market Study Conference notes,

Final Submission

May 2024

We appreciate and respect the important work of the Commerce Commission and we thank the analysts who plough through screeds of written material to tease out a better market structure for Kiwi Consumers.

The Commission must recommend in the final report that an active catalyst to open banking is created. This is because open banking or the introduction of Data Rights is not adequate to fracture consumer banking inertia.

The Commission must use the final report to push back on some of the mythological nonsense that the “cartel’ oligopolists “spilled at the ComCom during its submission and conference process (we urge the Commission to review our appendix on this)

We urge the commission to “join the dots,” from consumer banking and look at the impact of vertical integration into treasury and financial markets trading and the relevant “follow the leader “gaming of the NZ market in treasury and related products and markets and the impact this has on consumer banking markets and cost of funding.

We urge the Commission to research the valuation of the “too big to fail Guarantee “that is implied by the rating agencies in the big 4 cost of Capital, and to invoice the banks for this value afforded by the NZ govt. (as recorded in the rating agency reports of S&P, Fitch and Moody’s)

The BNZ has been bailed out by the NZ taxpayers 3 times and its business continues to benefit from this implied real guarantee. The board of BNZ leverage this real asset, but they don’t pay for it.

In the final report We urge the ComCom to stretch kiwi’s & policy makers minds and ensure that they understand well that the 4 pillars policy of the Australian government in the 1990s has not helped NZ and that the level of monopoly rent extraction has set new world record for retail bank profitability globally and is a working example of Kiwis paying taxes to Australian superannuants via the ownership of the Banks.

We urge publication in the final report where profitability is discussed to review and highlight the Insult that the main Board of the ANZ and CEO embarrassed the Commerce Commission with the announcement of a \$2bn share buy back just 7 working days before the ComCom conference . (*a Share buyback is an expression of excessive profitability*)

We urge the engine room analysts of the Commission to use Wikipedia style resources to understand the that investors consider a share buy back to be a signal of excessive profitability above their expectations, .... BUT ALSO, it pours cold water on the CEO of ANZ who claimed “we don’t have the investment for parts of Open Banking upgrades “

We urge the Commission executive to ignore the sleaze, lobbying, politician interface, TV spin, Boardroom ructions and forget that this Australian bank is in any way connected to the good of NZ.

We highlight ANZ ‘s almost childish claim that they “bring investment to NZ “- they extract rents leveraging the too big to fail endorsement of the NZ government, and they represent the fact that NZ government has sold sovereign rights to Canberra.

This enquiry into NZ banking is as much a statement that NZ politicians and policy makers have abdicated responsibility & banking sovereignty to Australia, whereby kiwi consumers pay taxes to Australian institutions (called oligopolist’s rents)

A rabbit (or a Possum) could bring \$50bn of investment to NZ if they had a Govt Guarantee in their credit ratings

### Comments on the conference

- 1) The Commission has continually improved and raised the standards of focus on issues and whilst MWNZ acknowledge industry structure isn’t altered in an instant, knowledge basis can be leveraged from previous conferences (particularly around Section 36, and the hiding of excessive profitability ). MWNZ felt that the ComCom, missed the leverage opportunity of explaining the highlights of previous “hide the excessive profitability “narrative in other NZ industries, but also , why they didn’t ask the banks , they finance house construction which would not be financed in Australia and illustrates 4x cost of construction internationally . (*Banking Market Study intersection with Building Materials was missed*)
- 2) The Commission did not communicate a blunt enough differential between, Consumer facing issues and competition matters.
  - a. Continually during the conference matters of common sense , ( How to prevent Money Laundering , or Pay Day lending gouging, or IT systems for open banking ) got every bank CEO to sing , dance, Haka, and recite War and Peace ) ,where as anything about competition and market structure or OECD benchmarks was ignored .This problem evaporated much needed time to canvas the subject matters of , how to break inertia , how to raise capital ( on the other side of banks ) , and what the banks competitive reaction to a challenger would be .
- 3) In some respects, the Commission was gamed during the conference as the subject matter differential of the heavy lifting of sustainable competition and institutional capital clashes, and what benefits consumers .

## AREAS WHICH MWNZ FELT THE COMMERCE COMMISSION MISSED BALL

- Lack of discussion on what it would take to create real price competition in Mortgages
- No discussion of the damage and cost of consumer inertia
- No challenger bank attendees
- Too easily distracted on important but none-competition regulatory activities
- Emotional banking bits, such as pay day lending, scams and Dementia Banking saw the CEOs of the Banks steer the conference off market structure issues
- Naivety about what it would take to raise proper capital for challenger banks
- Obsession with Pyrrhic competition
- No mention of HSBC departure
- Naivety that the 4 Pillars Australian Banking, meant that the big 4 NZ banks won't compete in NZ as it will lead to a more serious retaliation in Australia where market behaviour is stable.
- Failure to understand what the competitive reaction would be on matters and how the ComCom, would be gamed by Pretend competition.
- The Commission didn't seem to catalogue the impact of the dominance in retail mortgage banking created an unassailable market power in treasury, we urge the Commission to look at the ANZ Parent companies USA SEC reg Bond offerings prospectus and regulatory filings to capture what it means in fund raising, Antonia Watson referred to it in the context of introducing investment to NZ, However the MWNZ team believe its just noise .
- House hold asset allocation, was not discussed, or researched, - this is outrageous because this is a major non price impact of no competition, and essentially it has the NZ govt guaranteeing the banks over asset allocation to residential real estate at the expense of pensionable assets such as KiwiSaver .

## MUST COMMENT NOTES FROM MWNZ

- 1) The Banks have unlimited appetite to discuss Scams, Fraud, Money laundering, ESG, LGBTQ, Māori Green issues , but no appetite to discuss fracturing the Australian Club of stable margins
- 2) The ComCom have failed to talk to the most important stakeholder group in the Banking enquiry and have deferred to the career monopolist bank CEOs, the shareholder groups have not been consulted, even when they have driven substantial behavioural changes , such as green lending targets and removed politicians from Bank boards . None of the Green lending initiatives have been dreamt up by Kiwis, they are simply meeting ESG targets to satisfy a higher share price by USA 401k Pension investors.
- 3) The ComCom Commissioners have not used appropriate language to deliver to the public that they understand what it takes to break market power and tacit collusion
- 4) Politicians and policy makers may enjoy “beating bankers in public “, but bankers have trained in role play, and are trained to enjoy and deflect punches as a game.

## WHAT NEEDS TO BE NOTED IN THE FINAL REPORT TO MAKE THE BANKING MARKET STUDY A SUCCESS

- 1) How large blocks of capital can be mobilised to ensure new private sector banks can start to sustainably challenge incumbents.
- 2) Understand and publish the most likely blocking techniques and competitive reactions from incumbents when open banking start.
- 3) Deliver proficiency in comprehension of open banking and actively critique the banks “pretend *open banking nonsense* “where fish hooks and costs and blocking techniques are used to maintain their dominance and dilute the impact of real open banking .
- 4) Actively publish & Survey what a is needed to break consumer inertia, and publish active data on the economic impact of the “dead loss weight of monopolistic rents “ to share with other policy makers the impact of what the commission is trying to achieve with its well thought out well researched market studies
- 5) Actively complain about the lack of Consumer advocacy to support the ComCom’s work and highlight that there are no well-funded, professionally researched consumer advocacy groups that can effectively push back on the monopolistic nonsense of the banks. Its shameful that Consumer NZ is not supported to be more professional and proficient in its work to do stuff the

Commission can't do in market structure matters. It's a very sad day for NZ when only MWZN is at the Table holding incumbents to account making the comments that a Govt Agency can't make.

- 6) Publish comments about the insult that the ANZ CEO delivered to the commission when complaining about the investment required to initiate open banking. 7 working days after the Kiwi ANZ CEO announced a \$2bn share buy back
  
- 7) Deliver clear and present threats of a break-up of the banks and serious consequences if open banking is not functioning by the due date.
  
- 8) **Māori in banking.**
  - a. MWNZ respect Te Tiriti o Waitangi, MWNZ is Not Māori, MWNZ does not speak for Māori , MWNZ respects Māori business initiatives and the size of the Māori Economy , Several MWNZ team members have experience in working with Māori business partnerships . Without wanting to ignite a firestorm of controversy,
    - i. MWNZ believes Māori ownership of banking, is a much better solution than Māori Participation, Open Banking Gives Māori a better shot at clawing back from Aussie owned banks. Māori Cultural, Ownership and intergenerational business capabilities make them an ideal candidate for pan Māori, Pan NZ, New NZ bank.
    - ii. We carefully mention that we don't think Māori Interests are best advanced by the creation of specialist Māori banking departments in the major Aussie owned banks. Which look similar to the Rudd concession documents signed in 1888 in Southern Rhodesia by King Lobengula , from the Ndebele people and Cecil Rhodes from the British Crown.

#### **DIRECT RESPONSE COMMENTS TO THE MAJOR POINTS OF THE DRAFT REPORT**

- 1) **Ensure the regulatory environment better supports competition**
- 2) **Empower Consumers to Better access the benefits of Competition**
- 3) **Accelerate progress on Open Banking**
- 4) **Improve the position of smaller providers and Kiwi bank**
- 5) **Consult with the Sector and Stakeholders**

## Summary

The final report must have detailed and successful action steps to capitalise challengers correctly. and TARGET at least \$2bn of fresh capital into challenger banks, there is over \$60bn of capital in incumbent banks, the Commissions Draft report fails to articulate the gravity of the problem of market power . FinTech's in NZ have failed to raise capital which even equates to one year's salary of a Bank CEO!

Regulatory items scams, money laundering, fraud and ESG noise are all the tools of the banks to perpetuate incumbency .

*(yes that is \$2bn, not \$200m and not \$20m )*

A structural separation of the incumbent ANZ and ASB, must be put on the table as a sensible, precedented initiative that helps NZ consumers and creates competition . This should be catalogued in the final report.

The Bank CEO's in NZ should be largely ignored as they have audit trails of misinformation, ESG breaches, and vested interest pursuits , they are supported by well financed lobbyists , and low integrity organisations like the Bankers Association and INFINZ , who consistently apologise , confuse , and side track policy makers from consumers interests in competitive pricing structures .

The Commission must consult closely with more senior people than the assistant captains of the NZ banks, they are called the ACCC, Australian Parent organisations ESG departments and the end shareholders of banks in USA and EU pension funds ESG departments .

Every market study raises the stakes, without doubt the commission should be proud of the continued upgrade of market studies, since the 2007 Mobile telecommunications Market study , but we are yet to have a market fixed , with no structural changes , only compliance costs have been increased, which is able to be past onto consumers

Our favourite point is that "there is no pass through " , the dramatic cost to income ratio improvements have all benefited shareholders not consumers

ANZ board members embarrassed the ComCom and itself announcing a \$2bn share buy back 7 working days before the Cone

*NZ payments should not be owned by the banks! – Force divestment in the Final Report*

Acknowledge the NZ is 15 years behind best practise

The Commission must acknowledge where the start up capital came from for start up banks in the EU in the final report so NZ policy makers understand what happened internationally.

The Final report should see incumbent banks invoiced for the capital base of start up banks

The incumbents must be invoiced from the RBNZ for the “*too big to fail guarantee*”

- **Ensure the regulatory environment better supports competition**  
 We urge regulatory best practice and active OECD benchmarking here, the fundamental problem is the RBNZ is worried about systematic risk in the NZ mortgage market) like the UK in 1989 – this means the asset class is under strain .
- **Empower Consumers to Better access the benefits of Competition**  
 We urge the ComCom to prescribe better consumer education and financial literacy, An absolute catalyst is needed for open banking to open the market, such is the influencing swamping and absolute sleaze of the big banks , open banking is under seize from misinformation seeded by incumbents .( Including big name political journalists)
- **Accelerate progress on Open Banking**  
 We applaud the sense of urgency, NZ is 15 years behind not 10, more importantly Kiwis are being taxed by Australian pensioners, and kiwis need this money to pay for their own retirement . A catch-up plan must include capitalisation of challengers.
- **Improve the position of smaller providers and Kiwi bank**  
 We urge the Commission to not rely on Kiwi bank, its intellectually Lazy to consider it a solution, why should the taxpayer have to pay up for Monopolistic incentives created by bad M& A rules and churlish regulation
- **Consult with the Sector and Stakeholders**  
 The Big Aussie banks and their CEOs cannot be trusted to advance the interests of consumers, they are junior to Shareholders, international regulators and OECD best practice, Unless the ComCom becomes the film Commission and is making a movie , how to confuse regulators to preserve market dominance , we urge the Commission to be entertained but not engaged with Bank CEOs.

### **Comments on the Executive Summary Thrust Points from the ComCom**

#### **ComCom “There is a stable oligopoly with no maverick provider”**

MWNZ comments, the draft report fails to discuss the detailed impact of the Australian market structure with the 4 pillars policy. but most importantly, the Commission is poo pooing investors and being disrespectful to capital calling them” Mavericks “. The use of this word is offensive to serious investors putting capital in harms way to break up an oligopoly. We submit to the Commission that the final report should mention “***Greenfield institutional start up***” or similar as the appropriate language

We also urge the CFA qualified analysts at the Commission to come up with 5 decent initiatives to attract capital for new banks. these should include

- 1) 5-year moratorium on challenger bank brands by incumbents
- 2) SMP rules for those with Market power, so SAC wars and Bundling can't take place by incumbents
- 3) Asymmetric behaviour rules
- 4) Public policy Campaigns explaining challengers have Guarantees from Govt up to \$85k
- 5) Recommendation that the incumbent banks start paying for their too big to fail guarantees and that these payments pay for the capital contribution of the new banks
- 6) Expectations on market share are established with date timelines
- 7) The Commission actively catalogue the difference between long term strategic competition and sustainable challengers exist rather than short term euphoria about competition, and then a decline in competitive thrust, like the NZ wireless business where the 3<sup>rd</sup> operator has been quarantined by poor spectrum and cell tower policy

#### **ComCom "Limited innovation by the banks.**

MWNZ comments, We urge the Commission to set benchmarks for innovation, why innovate, when you can have share buy backs and dividends ?

Innovation is created by real long term sustainable competition; this is only a signal that there is no competition. You can't regulate to innovate, ... you can only copy

#### **ComCom Limited investment, high profitability, and niche groups poorly service**

We urge the ComCom to solve these problems by Asymmetric behavioural and regulatory requirements and a precedented break up of large incumbents. The final report must discuss in detail the capitalisation of challenger banks.

The taxpayer can't fund Kiwi bank, not only because cancer drugs and schools are a more important investment, but the private sector needs its skills to fix this sector . The ComCom is not interventionist, it is saving capitalism by fixing severe antitrust problems. Government organisations cant react fast and trigger new consumer behaviours, these are jobs only the private sector is incentivised to achieve.

We urge a Fundamental rethink of how Mortgage brokers are regulated and orchestrated they are worth a mention as they are more leverage in the fixing this broken market.

Brokers can be used like multi brand mobile operator stores where in the EU & OECD to open up the telecoms market , .

*We urge a statutory and generous position in the value chain for mortgage brokers for 5 to*



*10 years, as a fundamental leverage point to open banking. We are happy to submit in private how this can happen for the final report*

WE applaud the analysts at the Commerce Commission and the nice person who answers the phones, we appreciate the Commission's determination to fix broken markets

THANK YOU for considering the comments from MWNZ

All of this submission may be made public

Regards

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MWNZ