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By Email marketstudies@comcom.govt.nz

Dear Commerce Commission

Personal Banking Services Market Study – submission in response to draft report

Thank you for the invitation to submit to this important study. Thank you also to the businesses, community and advocacy groups, the public, and others for your submissions also.

I would also like to take this opportunity to thank the banks in New Zealand that will allow vulnerable customers to continue banking with them or even allow them to open transactional bank accounts. They are so far The Co-operative Bank, TSB Bank, Westpac and Kiwibank. While I have not yet contacted all the banks in NZ, I think its fair to say that these banks currently have at least an understanding that banking is an essential service, and while they must still determine themselves whether they should bring a new customer on board, they at least (in my opinion) have considered that vulnerable people should not be excluded from being allowed at least one transactional bank account, a debit card, eftpos and internet banking facilities.

My thanks also to the Commerce Commission for acknowledging our concerns that we all need to be able to hold at least a basic bank account in order to participate in society and be able to access wages and other essential services. We still have a long way to go, but at least it's a start. Thank you for referencing my earlier submissions. I look forward to those links being provided in your final report.

Please note that time restrictions mean I could not fully read in detail all line items of your report, so I hope this submission makes sense. If not please let me know.

To my confidential submission I attach the BNZ's response to me trying to open a bank account with them. Even today you can see there is no legal obligation for them to provide me or anyone else any banking services what so ever. The banking ombudsman are powerless when it comes to empowering the banks to provide essential banking services to all NZ people. To the confidential copy of this submission I have attached also the most recent emails I have received from the Banking Ombudsman and you can see their ability to resolve banking disputes is severely limited. In my case the banking ombudsman chose not to take part in the dispute I had with the BNZ and they acted only as a messenger relay and would not open any formal investigation. The disputes and issues with BNZ will have to be resolved another way.

One important point that came to my attention is that the four largest banks – ANZ, ASB, BNZ and Westpac while they are Australian owned, they still manage to control 90% of the banking assets in NZ. This fact I expect that they by their very dominance have a substantial impact on how government creates banking policy.

What I would like to see is some study done along with a cost benefit analysis as to what the NZ economy could look like if the four largest Australian banks could no longer hold the greater proportion of “assets” But for such assets to be held by NZ owned and operated banks and ones who will put the rights and wellbeing of the NZ people first. And that such banks would be open in their written policies, terms and advertising that say “we support every NZ citizen and permanent resident in their right to being able to have access to all essential banking services in NZ and our banking platforms and our terms and policies make that possible.”

Your draft report says you have found generally that competition is not opposed. For myself personally I don't oppose greater banking competition as long as it does not further restrict consumers from being allowed access to essential banking products and services. I do however have concerns around open banking, and also the continued lack of regulation in some banking areas.

The concerns I have around open banking are what identification verification systems will they use. If they are the same as the current banking system with the AML/CFT requirements then those who have no fixed abode or proof of address will not be able to use those services. Another issue is whether there will be any transparency with the business models of open banking. Already the regular banking system has business models that are so opaque that I don't know if anyone other than the Reserve Bank actually knows how they fully operate. It took the bankruptcy against me to uncover the corruption and lack of regulatory oversight to understand even just a little of the unlawful and dodgy practices that exist not only in the banking industry but with other institutions as well. As a result of such practices some in my opinion create conflicts of interest with other institutions. I have already alerted the Law Society about such conflicts.

In my previous submissions to you I outlined some of the unregulated activities that the government has so far failed to address. To recap they include banking policy around debt products, the on-selling or assigning of debt products to unregulated third parties, the harms that the unregulated credit reporting agencies cause to the NZ people with regards to credit reporting and credit scoring, to which they currently can never be held accountable. They work in tandem with the banking sectors as well as other corporate providers and government agencies who provide goods and services in NZ.

I am pleased the Commerce Commission acknowledged the submission of Dr David Tripe, even if you chose not to comply with his suggestions that you expand your study to include credit card and other forms of debt. The fact is banking assets include those things so I fail to understand how such products could not be a part of your study?

I disagree with your determination that debt products are not as important to understanding the competitive dynamic nature of personal banking service. Money I borrow from the bank (regardless of what name it goes under aka – personal lending, credit card etc), is for me a liability. And for the bank its called an asset. Banks securitise personal debt products and sell them to investors. All banking products and services by their very nature, including their administration must have some bearing on competition. Since they are a huge part of their commercial activities.

Regarding the lack of switching where debt is involved, it seems to be because the banks require that an individual have their main income going into the bank that they hold debt with. One of the important points I try and get across to others is that when it comes to debt it matters what money you owe each individual establishment (rather than the type of debt) because the banks treat all debt the same against the individual customer regardless of what type of debt it is. In my case with the ANZ bank when they lent money to my company after the Chch earthquakes and they could do so without requiring I sign any documentation prior, and when the high court bankrupted me later ANZ actually was able to combine all personal and company debt on to the one claim

proof which they submitted to the insolvency office. This is one of the many risks of borrowing that consumers are not always aware of.

Yes not having a residential address means you don't meet AML/CFT requirements, this actually not only prevents one from being able to have a bank account but it also prevents people from being able to access legal services when they need a representative in court. Legal aid is not available to all people either. I and many others have been forced to represent ourselves in the High Court when a bank wants to bankrupt us. There is nothing fair or "just" when a large corporate bank wants to use several different law firms, debt collectors and private investigators along with the High Court all in order so they can have some rights over a debt. There are no regulations on banks that limit the costs that banks can place on a borrower for its debt collection efforts. I'll never know how much money was used by BNZ bank when they knew that I was in financial hardship and still chose to add some of those costs against my name via the insolvency office for them using several law firms, debt collectors, private investigators and two high court appearances all for a debt of \$6,400K! I do not understand how such activity is not regulated under current NZ laws but it's a huge component of banking activity.

Financial literacy – other MPs have acknowledged in the past that NZ people generally have poor financial literacy skills. In the profession I work in, many people still have difficulty accessing banking platforms and have trouble accessing online bank statements and file formats to import into accounting software programmes. I myself have pointed out many times to BNZ that their banking app does not correctly deal with driver license IDs and even their online desktop banking pages continue to bring up errors, but they still have not corrected them.

Regarding your point 2.77 I will be contacting the groups you mentioned who you claim are working on financial inclusion. For a long time I and others have said we need to ensure that people are not discriminated against because of financial hardship or financial position or status. Already the work I and others have done we have found tremendous issues in not just banking but in other financial sectors as well. Vulnerable people are not all formally recognised even in the Human Rights Act or the Bill of Rights Act. Making changes to these laws is needed as well. And I will contact such groups you mentioned who are working on financial inclusion studies.

2.78 – At long last an acknowledgement by the government that we need some way to ensure consumers are treated fairly and some way to lift financial literacy of New Zealanders. As a previous student of Te Wānanga o Aotearoa (TWOA) and having completed two of their financial literacy courses, while they had some useful content, most was geared towards low income young families. Also a lot of their material was severely lacking which I brought to their attention. I don't know if they made any changes but they stopped providing financial literacy courses in Christchurch. One of my concerns to them was the heavy focus on debt products and the ease at which low income earners could access debt for essential household products.

Māori – I am unable to comment on their banking views at this point in time however I did read the article on training and financial literacy that your draft report to link to. The comment I'd like to make is at least they were successful in having even a very tiny small-scale study undertaken, its probably better than nothing? I would like to see much larger studies done across all cultures and groups in NZ. And with a focus on creating wealth rather than just spending and savings habits.

Regarding your 3.13 page 58, those barriers apply to many people, including those who are in formal insolvency procedures regardless of whether they are Māori or not.

The lack of transparency around how banks accept or decline services are tightly guarded secrets. It wasn't until I was well into debt that one of the big four banks revealed to me that they

put a lot of emphasis on what they call uncommitted income of their customers when deciding on lending. Because there was no regulation around this, one bank did reveal to me that they had grossly and deliberately overstated my “uncommitted monthly income” Such reports by the banks should be made available to borrowers as well as the banks formulars and criteria as to how they actually determine whether a person can afford borrowing. Borrowing decisions need to be made by the consumer as the lead and in conjunction with the lender. And borrowers need to have access to the appropriate information and skills so they can make fully informed decisions. As a bankrupt and looking back over my past banking history, knowing what I know today even a little more about banking products, there is no way I would have ever made the decision to borrow money if I knew banks are allowed to use their software to have my financial information display in such a way that benefits them. There was no one to tell me back then that one of the risks of borrowing from banks in NZ is that banks do engage in reckless lending practices. Banks have also found themselves as defendants in court because of their practices. How will the courts deal with open banking cases? Has that had any consideration?

The banking relationship I had with ANZ and BNZ banks resulted in me having no say in how I wanted to resolve my financial hardship issues and repay the debt. My debt repayment offers were rejected. The bankruptcy itself created brand new debt against my name that even has a GST component. And over three years literally \$20,000 of tax payer money was wasted for insolvency officers wages so they could “administer” the bankruptcy against me. The benefit to the NZ people and my creditors was absolutely nothing. And such process continues to cause financial harm today both to myself, the people of NZ and to the integrity of the financial systems generally. Multiple that \$20K of the people’s money by the thousands of others who are bankrupt every year and you would be mad not to ask “what the “f” is going on with the NZ banking and financial regimes” Today I continue living without debt. I can tell you its not easy, when the whole of our society is geared towards consumption. It takes real strength and permanent life restructure to be able to live on minimum wages when the cost of living is so high. But living a severely restricted life, still far outweighs the risk of getting into debt. And it would not be possible without the support of others. I am hugely grateful for their kindness.

I wonder how open banking will help Kiwis create real wealth. There is talk of other banking market participants being able to provide features that will help consumers with not spending such as providing blocks on their money when a required limit is reached. I approve of such a service and there are many advantages to having restrictions on access to your own money, as long as you get to chose the restrictions of course. Such feature won’t work if providers of the service set the limits. I hope the point of open banking is to help all NZ people become more wealthy. Something that so far the current banking system has failed to accomplish.

Your report linked to the FMA consumer experience with the financial sector survey. Overall the results don’t show strong confidence in the FMA by the public. Its worrying when the government is considering open banking before actually addressing the issues that came out of the survey. In my earlier submission to you I did provide you with a letter from the Banking Ombudsman that proved the banking sectors do lend recklessly.

Mistrust in the banking industry – So far I have not seen any work by the government or the banks that show that they have any real intention to correct the issues of mistrust and lack of confidence that others perceive about the current banking industry. However I do note your draft report mentioned some work is now underway or being considered. One must question the motives of any bank when they won’t change until some government regulation comes into force. And why aren’t the banks meeting the needs of all the people of NZ. If the banks truly do not have a sufficient understanding of the needs and preferences of Māori (and others), then one must also question the skill level of the banking authorities and their directors.

The NZ Parliament buildings are filled with Maori rooms, carvings etc, the Treaty of Waitangi, etc. I find it extremely difficult to understand that any financial institution has what your report stated to be “an insufficient understanding of the needs and preferences of Māori.” Really??

Personal banking service providers do collect data on its customers. They do this by way of retaining permanent customer profiles including all interactions they have. When I returned to a NZ bank years later they still had information on my past banking history from 20 years prior. Banking histories are not subject to any regulation and can be used negatively against a customer when they need to return to the bank or open a bank account. Banks are free to decide who is deserving of a bank account simply based on previous banking history, as well as other unregulated factors like the use of credit reporting and credit scoring.

As the banking sectors stand today, I absolutely do not support the banks providing anything in the way of financial literacy. Their motives are for profit only and they are particular about the types of people they want as customers. ASB bank made it clear to me that banking is a privilege in NZ not a right. Does this mean that we who the bank deem to be not worthy of holding a bank account that we are also not worthy of having access to financial literacy? Banks sell our personal information to others such as investors, and credit reporting agencies. Do you seriously believe they are going to provide financial literacy that will benefit us, before it benefits themselves first??

High Profitability in the banking sectors – I suggest that such is facilitated by the lack of banking regulations and transparency regarding debt products including debt selling/factoring and securitisation, and banking terms generally.

APIC Centre – Minimum Open Banking Implementation Plan – reading this information it would seem that Open Banking in NZ has already started to be implemented and would likely go ahead with or without any banking study by the Commerce Commission?

The verification of a consumer’s identity in a digital context will be fundamental to open banking. My concerns with this is what protections are in place to protect Identities. This is a huge issue in also the public insolvency regimes, whereby the insolvency office will provide personal information about an insolvent to anyone who asks for such information regardless of the reason for the information. I found that the insolvency office had provided information they held against me to some random, not a creditor in my bankruptcy, but who was able to include me in his own public insolvency list he obtained from public government records. There are no restrictions or any regulations around this type of activity from within NZ. If I wanted to do the same, I could. I could just pick up the governments list of insolvents along with their personal information and display in on my public website for anyone to see. And I could do so legally without any restriction whatsoever. The suppliers of open banking products will require the use of intermediaries to provide access to their platforms. Just what rights will these intermediaries have when they hold our data even for short periods of time. Current banking contracts are not required to reveal who specifically they will make our personal data available to and how that party will benefit from such data. I would like to see more people widening their criteria when they consider who they want to bank with and that includes open banking participants as well. Criteria such as who the banks associate with, how do they treat all their customers. Will they provide full disclosure of their services etc, and not ask us to sign any contract that waives our privacy rights, or that we must “consent” to banks (and other lenders) the right that they can add their costs of collection to our existing debt. The CCCFA does not currently cover all lending parts of a debt or mortgage contract.

It scares me to think that our information is going to be accessible to many individuals and organisations all over the world because of digital ID’s. Already banks share data with many associates both nationally and internationally. The unregulated credit reporting regimes are used

for this purpose. Banks also share information about their customer with other banks. Knowing that banks can do this and can give my personal information to people who can exploit my vulnerabilities such as dodgy debt collectors is a huge reason why I have lost faith in the banking sectors. With open banking, the banks will be able to continue these activities just the same, but all over the world as well. The only advantage I got out of being forced into bankruptcy in the name of the Bank of New Zealand is that at least by the time I am fully discharged in May of this year, open banking will not yet have been implemented in NZ. There is little to no regulation around the third party associates of the banking sectors. How is this going to be dealt with by the Government. And what protections will be in place so vulnerable people don't continue to be exploited further. I already struck privacy issue requirements between a debt collection company in Australia who the banks sent my personal information to. This is why I spoke to the Select Committee regarding the new privacy laws, however they showed no interest and did not act on the information I provided to them. The lack of government interest and action is just another reason to be fearful of any changes to the banking systems and debt regimes.

Your list of draft recommendations – “Industry and Government should prioritise ensuring widespread availability of basic bank accounts.” At least you have acknowledged that and that governments and industries should prioritise such. However it needs to be stated that banking is an essential service in NZ and access to at least one transactional bank account and its associated products such as eftpos cards, internet banking and debit cards should be a fundamental right in NZ for every NZ citizen and permanent resident. And that right needs to be reflected in NZ laws. Your statement also does not suggest that the consumer should have the right to be able to choose who they put their own money with. Given the banks control over our own money, does not instil faith and confidence in an already turbulent banking sector. Much trust has been lost in many sectors of New Zealand. Its to the credit of our country for you people to bring back trust and lawfulness of the sectors who have harmed us. Giving people the legal right to hold a bank account with whom ever they chose and access to banking facilities goes a long way to rebuilding that trust.

The tragedy in the way banks can treat us is that if we go into any bank and ask for a bank account because we need to access money so we can access support or make purchases the banks are within their rights to say no we don't want you having that privilege. I do not understand how the banks can be allowed the “privilege” to do this to us. Yes I do have bank accounts with other banks, but I don't get to choose freely who I bank with. ASB's earlier statement to me confirms that the banks hold a special privilege that gives them greater rights than the individual people of NZ.

I note your draft report Page 321 D37 references the CoFI legislation and a “fair conduct principle” I haven't yet read this but I hope it includes the actions of lenders and banks along with their associates and lawyers because they are all part of the debt collection process. BNZ's associates EC Credit Control NZ Ltd were able to go against the ruling of the Disputes Tribunal and substantially back dated thousands of dollars in interest that they had no right to do so. And they had BNZ's lawyers submit such debt on a claim proof to the insolvency office along with a newly formed GST component were none existed before. This probably goes way beyond fair conduct but I hope the CoFI legislation will prevent such actions against others in the future, because no other NZ laws do.

In my last submission I outlined 10 recommendations. I hope they are considered and implemented.

Regarding a definition of a basic bank account – I suggest it should include an unencumbered account for day to day transactions that has no overdraft or lending facility, has eftpos facilities, and at least one debit card, phone and internet banking services.

If the government is unwilling to put in place ways that people can still have access to essential services when the banks refuse to allow us even a basic bank account then it will be for the people of NZ either individually or collectively to continue carrying the burden of ensuring that our fundamental rights are protected and that we can access essential services. The banking system and their associated industry's have the ability to lock people out of the economy and in some cases they have succeeded. Because we don't have protections from that, our economic and financial systems need a complete overhaul to reflect the needs of the people in today's economy. In saying that a lot could be solved by the government simply adding in exclusion clauses to the HRA, then it would be a natural progression for the banks to have to provide access to basic banking services and there would not need to be years and millions of dollars spent on researching and reporting. But today we only have this banking study to work with.

My recommendation as well is to ask the government to consider how changes to the Human Rights Act can allow all NZ people to participate in society. I note your report Page 181 7.88 where you advised that there is an intention to review aspects of the regulatory regime for the financial sector. I hope this proves positive. My particular interest is the current lack of regulation around the banking industry's associates and how they collect defaulted debt. I would like to see a review of the formal insolvency regimes as well, because that is another financial system that simply is no longer fit for purpose and actually harms people both borrowers and lenders.

Once upon a time, not too long ago, I held the government of NZ and the banking institutions in high esteem. Sadly as time has gone on there have been so many wrongs done by the banking sectors and their associates and the failure of the NZ government to put the wellbeing of all the people of NZ first before profit, that I and others have simply lost faith in the entire regime.

The only way the banking industry will change in a positive way and to truly consider our wellbeing, is if the government addresses all of the issues along with the influences and affiliates of the banking industry and who support them in their privileged position in our country.

Regards

Lisa Jane Mary Cowe


DECLARATION: No part of this submission includes any A.I. generated content.

"Having a bank account in New Zealand is a privilege, not a right " ASB Bank Ltd