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Dear Commerce Commission

**Cross-submission - Market study into personal banking services**

Thank you for the opportunity to submit a cross submission. There is nothing in my submission that is confidential and you can publish it in its entirety along with my full name and contact details.

I have read the submissions and I would like to comment on some of the points that stood out to me.

First though I would like to say a huge thank you to the individuals, businesses, industry representatives, and community groups who took the time to make submissions. It helps us to understand a little more of how banking affects the day to day lives of the people of NZ. Thank you all for sharing how banking is affecting you, your families, your customers and your communities.

If you read my earlier submission you will know that my interest is in how the banking industry is negatively impacting peoples lives to the point that people and their families are being substantially harmed by the current banking and insolvency services and regimes that are in place in NZ. This needs to be addressed and dealt with before you unleash open banking on to our communities. There absolutely needs to be harm reductions and preventions built into your laws and studies.

I read the submissions from individuals to corporations and what was common throughout was that the current banking regimes and their business models are harming individuals, families and communities. Good people of NZ being refused banking services and even transactional bank accounts!

Certainly the documents I provided to you in my first submission have not been negated by what submitters have since made. What is clear is that the written practice of banking is substantially different from the actual practice of banking. As one submitter mentioned, you the commerce commission need to base your research and your recommendations on the reality of how banking currently operates in NZ. Its clear that areas of banking are unregulated or just not supervised. And other suggestions were that we need full sector studies done.

My recommendation to the government is to fix these issues first before open banking gets a foot hold.

As stated in my first submission and some points shared by others:-

1. The NZ government to acknowledge that banking is an essential service needed by all NZ people in order to function in society. And with that they should have the legal right to hold at least one transactional bank account along with the associated services that are required to access and use such facilities like internet banking etc, and that they can hold such without

any form of discrimination whether express or implied, or judgment and regardless of their:- personal situations, financial positions, abilities, disabilities, past or current banking histories and account conduct.

2. Changes to the Human Rights Laws that will ensure the NZ people cannot be discriminated against and be excluded from society because of restrictions that banks, credit reporters and other financial industries can impose on them.
3. An independent disputes resolution body, that will ensure that both parties leave with fair and equitable resolutions to disputes and financial hardship.
4. An independent advocacy group who can help people liaise with banks, creditors and lenders.
5. Judgment Debtors facing the High Court to be allowed access to legal aid.
6. An independent (non-bank) organisation or advocacy group that can provide real financial advice to people in financial hardship or who are on limited incomes and including those who are self employed or business owners. And that such group is not in the business of promoting any form of debt.
7. Ways to prevent fraud that's being done through payment systems and online payment platforms.
8. Financial hardship, including financial bullying, as well as insolvency to be recognised formally as a complex psychological trauma. Complex in the meaning that such financial trauma occurs multiple times over years and has permanent life changing consequences. Today I adopt the term – Collective Corporate Bullying. Because it represents the nature of how banks and other lenders can come together with their associates to literally bully a borrower into submission.
9. Give legal rights to the borrower as to the contract they have with the bank, including the right to not have debt on sold or collected by a debt collector. Banks need to rewrite their terms of lending.
10. For the ANZ bank to pay back in cash, the interest on the money they added to the debt they lent to people after the Christchurch earthquakes in 2011.

Since my last submission I attempted to open a transactional bank account with the (Bank of New Zealand) BNZ. I already have Kiwisaver with them. However I was unsuccessful. First their verification software both online and through their phone app would not recognise my valid NZ drivers licence. I then contacted BNZ directly who informed me that such services were not available because I don't have any active bank accounts other than Kiwisaver. I was then told by BNZ that due to notes that were on their files from 2018 they could not open a bank account for me at this time and that such a request for a bank account needs to be made to the lady in charge [REDACTED].

The request was made, and I received a call back from BNZ and they confirmed that because I was bankrupted in the past, I will never be allowed a bank account with BNZ even in the future.

The submission made to the Commerce Commission by BNZ says at 6.8 - "BNZ is committed to ensuring its product and services are accessible to all people in New Zealand." Today's conversation with BNZ confirmed that not only is this statement untrue but also that BNZ will not be giving bank accounts to bankrupts in the future.

When I read the submissions that were submitted by banks that exclaim – "there are a number of initiatives to improve personal banking offerings across different population groups" I am curious about these statements, because I certainly have not experienced any improvements myself, nor have others who have contacted me recently. In 2018 I was still bankrupt. BNZ and other banks have already confirmed that I don't have the same rights as others to being able to hold even a transactional bank account with them. If they refuse to provide me with a transactional bank

account, then they have further confirmed that people like me, will never be allowed even a basic bank account with them. This is because I have been bankrupt and because I will never hold debt. The submissions also confirmed that Rabo Bank was closing the accounts for people who did not hold debt! This is what banking has become in NZ. If the government won't allow us the right to hold at least one transactional bank account with any bank we choose, in law, then make sure your study will tell us who the banks are who are no longer prepared to provide us with such essential services. I wonder if this is the real reason why the government wants open banking, because soon the NZ banking systems will only be for the people who are prepared to hold debt. So far there are some banks who will give bank accounts to people of my financial "status", what will this look like in the future? Banks only wanting customers who will get into debt has already started changing our entire country's financial landscape. Are we now going to be discriminated against by whether we hold debt or not? Are banking products and services going to only be available to people who borrow money?

If we had an advocacy group or support available, I could reach out to them for assistance. The only thing I can do is to make a request to the privacy commissioner to find out what information BNZ hold against me and why they will not be providing products and services to all people as they claimed in their submission to you. I have reached out to support agencies including budget advisors in the past, however they have tight criteria's they work under and they don't like dealing with banks and debt collectors.

The changes made to the Credit Contracts and Consumer Finance Act (CCCFA) requires the lender or debt collector to disclose information to the debtor. The changes don't give the borrower any better rights than before. In some instances it made things worse for the borrower, by not giving them the right to make their own determinations as how to categorize savings and discretionary spending for example. I am all for transparency and I don't mind if people have to find other solutions because they realise that what they are borrowing is about them having to give up their other rights as well. It's a necessary life lesson to know that the matter of borrowing money and dealing with any bank in NZ, needs to be taken seriously. In terms of the CCCFA what's the difference to the borrower if the end result is that defaulted debt is still dealt with in the same way, I ask.

Disclosure of such information doesn't prevent a bank or any lender from onselling debt without the defaulted debtor being consulted. Nor how much the debt collector paid for the debt. I know from attending the seminar of Equifax that debt is sold by the banks to debt collectors at substantially reduced rates sometimes cents on the dollar! There is nothing in the credit contracts Act that recognises that such a sale has legally discharged the debt obligation to the bank. There is equally no disclosure requirements to the debtor of the price that the debt collector paid for the debt. There needs to be disclosure of this along with the profit margins that the debt collector is making when they demand full payment of the original debt including all costs, to the debtor. If a bank defaulted debt becomes the legal property of the debt collector then it ceases to be a debt of the type that is outlined in the CCCFA. One of the strategies that debt collectors use is to have the debtor agree to the debt over the phone. Once they do, they are now "legally" required to pay the debt collector any amount it asks for. There is nothing in the Act that caps collection charges. They just find new and better ways of circumventing any law or regulation.

A note on the banks debt resolution schemes. [REDACTED] a person does not have to be a lawyer to know that the banking ombudsman doesn't resolve debt disputes. I have approached financial advisors and they were not able to assist with the debt I owed to the banks. I am aware of the hardship provisions in the CCCFA. Once again its still up to the lender to make the decision. Writing it into the Act doesn't change any rights that weren't there before and it doesn't give any better benefits or rights to the debtor. The CCCFA doesn't appear to

limit how many debt collectors the bank can use, nor that they have to reside in New Zealand. What are my rights when a debt collector in NZ acting on behalf of the bank comes knocking and at the same time another debt collector from Australia comes knocking for the same debt! The CCCFA also includes exemptions to disclosures, and only applies to lenders.

I am reading a news article by the herald about a “Corrupt former BNZ banker...” who was part of a mortgage fraud scheme. Your market study or even changes to the CCCFA doesn’t prevent this sort of action by the banks. Is the serious fraud office going to prosecute debt collectors and their lawyers when they use false information to bankrupt a person? I opened a case with the police regarding the debt I owed I thought to the BNZ and the case is still open today. Under current NZ laws they are powerless to act.

The point is that it should not be up to the individual banks to decide who should be allowed a bank account because banking is an essential service. Its like Paknsave saying for example – “PaknSave is committed to ensuring its products and services are accessible to all people in NZ.” They don’t say it, because they know they cannot refuse to provide food.

I also want to make it clear that I don’t mean for the government to allow all people access to debt or lending services. When I talk about a transactional account, I mean one that does not have debt or lending attached to it. People should be able to access their own money and transact with others.

It was the ASB bank that made it clear that banking is a privilege in NZ, not a right! As shocking as this is, it is actually true! I was so disgusted as to the cruel treatment that I experienced at the hands of the ASB bank I contacted the St Johns Ambulance service who are sponsored by ASB and asked them to blacklist my address, so in the event I need urgent medical assistance they won’t come to my address.

Can the commerce commission please explain who is the agency that is tasked to ensure that the way banks run their businesses cannot cause harm to people. From reading the submissions, it appears that its no one’s job.

The CCCFA and the responsible lending codes were all in place when ANZ bank offered me money in 2011 without doing any checks or asking me to sign any documentation. It was the BNZ bank who actually said that the laws at the time only apply when the debt is first taken out. Even the new hardship provisions still give the lender (the banks) the great rights. There is nothing stopping any bank from selling debt to third party debt collectors who are not governed by the same laws. Still today there are examples of debt collectors operating out of Australia because debt has been sold to them by the banks. One debt collector actually confirmed to me that the banks will sell debt to them in bulk. And that its legal in NZ for multiple debt collectors to contact the debtor all for the same debt. EC Credit Control (NZ) Ltd acting supposedly for BNZ, wanted me to pay them 60% of my income! The hardship form they sent me wasn’t one of BNZ’s forms. I didn’t even have the right to know who I was actually in debt to. This company is still operating as a debt collector and my last conversation with them they confirmed that they also collect debt for government agencies. Baycorp who ANZ’s debt went through as well as to the Collection house in Australia even sent me “doctored” ANZ bank statements. I am including them in my report to the Treasury. ANZ gives debt collectors permission to white out and twink out any information they like.

If the government wants to bring in open banking I sincerely hope that its going to consider the harms that could occur as more debt becomes available to be on sold to unregulated third parties, who in the words of ██████████ – the Legal Complaints Review Officer - told me directly in the court, debt collectors operate as branches of the banks.

I was not surprised to read the submission of Dr David Tripe concerned about the omission of credit cards in your study. We had brief email communications a while back, and regardless of what he thinks about my situation, I am confident (I hope) he will tell you the truth and maybe he has some insights that you would do well to consider in that regard.

The actions that involved the banks and their processes is what I wanted the government to address. But they have simply refused to do so. I understand that after my appearance in the high court the government did make changes to the Property Law Act which, prior to their changes were the only avenue that debtors could perhaps know who the real creditor is once a bank removes debt from their books. If such information now has to be disclosed to debtors, they won't be able to do anything with the information. At least in the courts we could have set some precedents, but Judge Osborne refused to let me present my evidence and denied my right to a fully disclosed hearing. I am guessing the changes to the CCCFA are to keep debt cases out of the courts.

What I found interesting in the banking submissions is the mention of digital skills being essential for modern life. But yet there is no mention by the banks that a basic transactional bank account is equally essential.

The lack of banking regulation in NZ materially affects the lives of individuals and their families and even whole communities. I also spoke to Life Line and they confirmed that they get around 800 calls a year from people in financial hardship.

I agree that there is a substantial portion of the population that don't have the required digital skills for "modern life" and while I cannot quote stats, I can confirm I deal with many on an almost daily basis. Many people also don't have the required financial literacy skills either, perhaps in even greater portions than people who lack digital skills. IMO banks are absolutely not the right industries to provide financial literacy services. They are only going to be promoting first their business interests and their debt services.

I was curiously interested in BNZ's association with Digital Boost Alliance. I was actually contacted by a business in New Zealand claiming to also be an associate of the Digital Boost Alliance. Before that phone call I had never heard of such organisation. They claimed they were in partnership with the government through the Digital Boost Alliance affiliation. My scepticism compelled me to contact Digital Boost Alliance and thank goodness I did because they confirmed that such company had never been associated with them. They advised that they will contact them. I hope they do because this company (claiming to be partnered with the NZ government and Digital Boost) operating in NZ might be scamming a lot of people. Certainly the red flags go up when BNZ mentions their association with Digital Boost Alliance, given BNZ's past associations with the likes of rogue debt collectors and dishonourable lawyers, as I alluded to in my last submission. And then myself being subsequently contacted by a so-called association of Digital Boost. I'm not making any assumptions, but certainly its been flagged for followup.

What the first round of submissions have proved is that there are people in NZ who for whatever reason are unable to hold the required bank accounts in order to function in society.

It's an equal tragedy for our entire country when the only support that is available to vulnerable people, is more debt. No amount of borrowing ever solved a lack of money problem. What debt did for me was to keep me in permanent financial hardship.

The Reserve Bank has commented:-

<https://www.rbnz.govt.nz/hub/publications/financial-stability-report/2023/may-2023/fsr-may-23-special-topic-1>

“Highly leveraged borrowers are the most at risk of significant debt servicing stress” and  
“Indicators of debt servicing stress are beginning to rise”

Today, because I live without access to any debt and don't have full access to all banking services, I have to work doubly hard to be able to access every day services that most take for granted. Even some supermarkets and other retailers are withdrawing cash payment services. Some even close off cash purchases completely meaning you can only use a banking facility or similar to be able to make purchases.

Was shocked to read by one submitter that there was a waiving of affordability assessments during the lockdown. This is exactly what happened to me in 2011 when ANZ offered me substantial debt after the Chch earthquakes. As you will recall from the letter I sent you from the banking ombudsman they deemed such lending by the bank to have been reckless. This is why I asked for ANZ to pay back the interest on loans they added to the debt of others who they also recklessly lent money to.

Being “debt-free” is hard, but it's still better than the alternative. And I no longer live in fear of the banks or their debt collectors and associates. And that peace of mind is worth every bit of “debt” I continue to say No to when its offered.

When you look at the banking sector as a whole, there is no competition. They have similar criteria regarding account opening procedures, even their terms of debt and mortgages are similar. Through the bankruptcy I learned that banks do communicate with each other regarding their own customers, and they use the same processes and companies with regards to credit reporting and debt collection. They offer similar debt security packages to investors. They even generate similar profits.

Any “wellbeing” community involvements the banks might have, are similar in nature and don't impact on the way that the banks ultimately treat their customers. The evidence I forwarded in my first submission showed that the different banks all had the same “policies” with regards to how they treat certain groups of customers.

Banks can and do have their own internal policies into what they decide is a suitable customer, whether it be via previous banking histories or through credit reporting and credit scoring. However there is no competition when it comes to banks deciding who they accept as a customer. The fact that one bank has an entry point of 320 credit score or that one bank uses a different credit reporting company, the criteria is the same. Again it's the same systems and processes across all the banks, its just another name on the top of the letterhead.

Even banking digital products are at their core the same. Having access to calculators and other tools, can be found all over the internet. If the banks want real points of difference, have them create policies that are actually different from other banks, like what they include in their terms of contracts or how they collect debt for example. Even banking websites have similar content. I am asking the Commerce Commission to think not just about competition from a commercial perspective, but to conduct the study with how this all affects the customer.

As others have pointed out, lack of financial literacy is a huge problem in NZ. So promoting better interest rates with differences of only one or two percent actually translates to nothing when you consider that the people accessing such services are likely to be holders of long term debt. As at today ANZ home loan rates 7.25%pa fixed. BNZ 7.19%pa fixed. Etc.

The point of difference I experienced was that Kiwibank, Co-Operative Bank, TSB bank, and Westpac were the only banks that allowed me to keep the bank accounts I had with them while I was bankrupt. They, as a group could be said to be offering a true point of difference, because

access to their services made a fundamental difference to the quality of my life, and such services allowed me the ability to access other essential services.

The other point of difference is that I hold a bank account in another country. Their services to me are fundamentally different from what the banks provide me in NZ. As I look to move away from mainstream NZ banking on to other platforms that truly offer real points of difference and treat people decently, I guess it will be a race to get to international providers first who the banks and government have not yet contacted to form “partnerships” with.

Other points of difference would be know how the banks determine uncommitted income or how they determine affordability. These would be key points of difference that I would consider because they help me to be able to budget effectively, but for some strange reason the banks don't make this information available. If there was any point of difference in those numbers, well we will never know. So I could not even choose a bank based on its ability to understand my financial needs because they won't disclose publically how they perform their calculations and criteria.

A mention on AI technology. Webinars and podcasts have been given by authorities in the financial sectors. They share concerns about security. Particularly around the collection of IP addresses and what information is being “learned” by AI and what information is being made available to the public. This is a huge concern that our government will need to consider with regards to open banking. Already we have issues with security around products that use technology such as credit reporting. Security issues that mean anyone can be a subscriber to a credit reporting agency. This is how BNZ's associates were able to lodge claims against me using false information. They even had Equifax believing that EC Credit Control was the creditor for the debt I owed to BNZ. Lack of security by third parties in terms of banking now, means when I give my personal details to a bank in any form and even to the insolvency office, anyone who wants access to such information can obtain it, even without my permission. Its all very well having biotechnology and such to be able to access my own bank accounts but that's not going to stop another party from accessing my financial information when it gets passed to them by a bank.

Reading the submissions I do have concerns about the outcomes of this market study. There were only 38 submissions (28 actual submitters). And how can the commerce commission make any reasonable recommendations with only a tiny fraction of personal customer input. Its already proven that many areas of banking are without regulation.

I agree with the ideas that banks should pay more tax. Certainly the government could create the laws that mean banks earning certain profit levels could be required to pay tax rather than taking their profits offshore.

The government has known for a number of years that there have been substantial issues with how the banks operate in NZ. But they still have not changed any laws of significance that will prevent people from being exploited through the banking loopholes that continue to exist today. They likewise have not made any commitments to ensure people are not being forced into bankruptcy or being forced to give up their homes or get further into debt. Because I was bankrupted the debt against me through the courts process and the insolvency office actually made the money I owed anyone a lot larger than it ought to have been. It didn't matter that I had no assets nor the income to service it all. The fact is a debt obligation to the banks can more than double and I am powerless to defend against that. The \$6,400.00 I owed BNZ, their lawyers turned into more than \$14,000!

I understand that banking services are the backbone of all financial sectors, however they would not be in existence if it weren't for the individual consumers who are ultimately providing their profits in some way. The way banks operate in NZ needs to recognise that we have at least as

much importance, if not more than any other financial industry whether it be other governments or international industry bodies.

I would like to see the outcome of the market study to reflect the contributions that the banks' customers make to the industry. The only way you can do that effectively is to make better efforts to include them in your research. Then putting the laws in place that give people real choices over their own financial futures and wellbeing. What good is any study to us if at the end of the day the banks keep making bigger profits and we the underdogs just stay in debt for longer. If changes to the banking sectors mean some larger banks remove their services from our country, then so be it. I believe in New Zealand and its people. We will adapt and survive.

While there were only 28 submitters to this study, what I noted was that a good proportion of the submissions were from individuals. The other point is that all the submissions that were not from the banks alerted to the serious issues of financial harm that is occurring because of how the banks currently conduct their businesses in New Zealand. This fact the commerce commission and the government cannot continue to ignore. From the stats that were provided it appears that the banking industries don't work well for half their customers!

My opinion that debt is NZ's largest asset, I think is correct according to statistics provided by some submitters. In my previous communications to the government I have said that I believe that because finance and borrowing is fundamental to our livelihoods, finance and money and banking by their very nature are extremely challenging and complex. This is why I believe the government will not act to change the systems, its too much for them to deal with.

I have also said in previous submissions, I did initially believe that the Labour Party's "Wellbeing" ideas was a great concept. And I still do, but it needs to be wellbeing that the people of NZ can relate to. If you put real "Wellbeing" behind reforming the banking regimes then you automatically make sure such new regimes put people first and make sure that they cannot be harmed going forward. This is what Wellbeing means. When you get that right first, then everything else falls into place.

My wish is for all the financial services in NZ to be fair to all NZ people and help us to obtain real wealth, and that which services have protections built in so that people cannot continue being exploited. As another submitted suggested, the commerce commission should make efforts to fix the market with regulations and interventions. Yes the banks are collectively more powerful than the NZ government and that has been said by others as well, and by those who have held significant points of position in NZ. This point alone is what is causing the bulk of banking issues in our country, as well of the lack of regulatory oversight of banking generally.

PS I welcome further contact from the Commerce Commission regarding this study and am happy to provide other information if required.

Regards

Lisa Jane Mary Cowe  
(Signed Electronically)

*"Banks are not obliged to help their customers" The Banking Ombudsman Scheme*