



**Bank of New Zealand's submission on the Commerce Commission's Draft
Report regarding the market study into personal banking services**

18 April 2024

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Part [1]: Introduction and summary

(1 A) Introduction

- 1.1 Bank of New Zealand is pleased to provide this Submission in response to the Commerce Commission's Draft Report regarding the Market Study into personal banking services.
- 1.2 This Submission is set out as follows:
- (a) This summary in Part [1] describes the key themes of BNZ's Submission.
 - (b) The main body sets out our submissions in the following order:
 - (i) Part [2] Recommendations: This Part addresses the Draft Report's recommendations relating to competitive neutrality in regulatory frameworks, introducing a well-designed Open Customer Data regime by 2026, access to basic bank accounts and access to banking for Māori. We also address promoting the existing customer switching service, providing further information to consumers about the cost of home loans, and pro-rating customer and home loan adviser clawbacks.
 - (ii) Part [3] Findings: This Part explains why we do not consider the evidence supports some of the Draft Report's findings relating to the state of competition in the personal banking sector; the extent of consumer switching; levels of innovation and investment in the personal banking sector; and levels of returns / profitability.
- 1.3 We enclose with this submission an analysis by Deloitte Access Economics ("**DAE**") of factors relevant to the Draft Report (the "**DAE Report**").

(1 B) Summary

- 1.4 We have appreciated the opportunity to engage collaboratively with the Commission throughout the Market Study, and we welcome the opportunity to provide this Submission on the Draft Report.
- 1.5 We acknowledge that the Commission has identified a number of draft recommendations to improve how the sector operates and we illustrate in this Submission how we are committed to working constructively with the Commission and the sector on those recommendations. We have also identified findings in the Draft Report that we do not consider are supported by the evidence. [] BNZ strongly supports initiatives designed to enhance competition in the personal banking sector.
- 1.6 To best assist the Commission as it works towards its Final Report, this submission focuses on the following key areas:
- (a) **The Commission's finding on the state of competition**: Kiwibank is a significant competitor in personal banking. The Commission's own research highlights that Kiwibank and BNZ are effectively the same size on "main bank" share, at 12% and

14% respectively,¹ which the Draft Report describes as "an important focus for competition".² The Draft Report also states "Kiwibank stands out as the only provider that has grown consistently at or above system growth" over the last four years,³ and the Commission's research shows 30% of New Zealanders would consider banks other than the larger five banks as their main bank.⁴ We also provide other evidence, through the DAE Report, showing that the provision of personal banking services is more competitive and dynamic than the finding of a "stable oligopoly" stated in the Draft Report.

- (b) **The Commission's recommendations relating to regulatory and prudential issues:** The promotion of competition should not be at the expense of good customer outcomes and the financial stability of the sector. It is critical that New Zealand not be an outlier in relation to its international prudential regulatory or anti-money laundering and countering financing of terrorism ("AML / CFT") settings. Any material variance from recognised international standards would impact the perceived risk profile of New Zealand's banking sector and risk higher costs or difficulties in accessing funding from international markets negatively impacting outcomes for New Zealand consumers.
- (c) **The Commission's recommendations on Open Customer Data (Open Banking):** BNZ supports the right of consumers to control and safely share their own data as they see fit. BNZ is well advanced in developing APIs and partnering with Fintechs to work towards an Open Customer Data framework that delivers for customers. The successful delivery of an Open Customer Data regime in New Zealand is inextricably linked to a robust (but yet to be developed) Consumer Data Right regime.
- (d) **The Commission's findings relating to innovation and investment in Core IT:** BNZ's experience in the last few years is in contrast to the Commission's findings, with a number of projects underway to modernise critical systems that will create better experiences for our customers. This is a multi-year journey to transform and modernise technology services central to how we deliver our banking services while ensuring customer experience is not compromised during this work.
- (e) **The Commission's recommendations relating to basic bank accounts:** BNZ already offers a bank account for individual customers which is free to join, free to hold, and free to access. We note that a number of other banks also offer a similar type of account. Given the widespread availability of these accounts, concerns around the number of New Zealanders unable to open a bank account would be better addressed by refinements to AML / CFT requirements that are challenging for some individuals to meet in terms of proof of identity and address.
- (f) **The Commission's recommendations relating to access to, and participation in, banking for Māori:** Illustrating our support of the industry and Government prioritising work to reduce barriers to lending on Māori Freehold Land, BNZ has

¹ Draft Report [Figure 2.1].

² Draft Report [Page 32].

³ Draft Report [4.13.3].

⁴ Draft Report [8.18 and Figure 8.2].

already taken steps to drive better outcomes for Māori in this space. This work includes delivering a framework that has resulted in funding support for a housing project on iwi owned land in Tāmaki Makaurau. We believe this framework has potential for broader application among other iwi and we have offered to share this approach with other banks in the hope this promise can be realised.

Part [2]: Our views on the Draft Report's recommendations

(2 A) BNZ supports competitive neutrality in the regulatory frameworks where possible, but the Commission's regulatory recommendations need careful consideration

- 2.1 A number of the core recommendations in the Draft Report relate to how the Reserve Bank of New Zealand – Te Pūtea Matua ("RBNZ") exercises its role as prudential supervisor of the New Zealand financial sector, or to the legislative framework underpinning that role.
- 2.2 BNZ agrees with the Commission that, to the greatest extent possible, all regulatory settings (including prudential capital settings) should be competitively neutral. However, promotion of competition should not be at the expense of good customer outcomes and financial stability. It is important for the Commission to recognise the following points, which are outlined further below at the sub-parts noted:
- (a) There is an inherent tension between promoting competition and a stable and secure banking system for the benefit of New Zealand consumers. See sub-part 2 A 1.
 - (b) New Zealand's regulatory settings must meet international standards to ensure access to funding and good outcomes for New Zealand consumers. See sub-part 2 A 2.
 - (c) Capital requirements have already been changed and will be competitively neutral by 2028. See sub-part 2 A 3.
 - (d) Other regulations are being simplified, but all regulations must continue to apply a risk-based approach to keep New Zealand consumers safe. See sub-part 2 A 4.

(2 A 1) There is an inherent tension between promoting competition and a stable and secure banking system for the benefit of New Zealand consumers

- 2.3 As the Draft Report acknowledges, there are "strong and sometimes conflicting policy goals"⁵ when it comes to setting the regulatory frameworks for the banking / financial sector. We consider that the existing regime, which has been subject to in-depth review and public consultation recently, is appropriately balanced and that the RBNZ similarly strikes an appropriate balance of those policy objectives.
- 2.4 The Reserve Bank of New Zealand Act 2021 was subject to a multi-year review from 2017. The objectives of the RBNZ were explicitly considered,⁶ and the existing soundness and efficiency objectives replaced with the stability objectives. Additional financial policy objectives (such as promotion of competition) were contemplated and consulted upon, but

⁵ Draft Report [10.104].

⁶ (3 September 2018). High-level financial policy objectives: Safeguarding the future of our financial system, *Phase 2 of the Reserve Bank Act Review*. Treasury and Reserve Bank of New Zealand. Retrieved from: <https://www.treasury.govt.nz/sites/default/files/2018-11/rb-4002552.pdf>

not enacted. Treasury and the RBNZ have noted a number of points in relation to the RBNZ's role that the Commission needs to consider in making any final recommendations:⁷

- (a) The RBNZ must protect the stability of New Zealand's whole financial system and ultimately the whole economy. The effects of a bank in stress or failure can spill over to the wider financial and economic system. The RBNZ's mandate is much broader than just stability versus competition in the banking sector itself. Recent overseas experience shows that even the failure of smaller deposit takers can have a wider flow-on impact to the stability of the market and the economy. Silicon Valley Bank was not considered to be systemically important, yet its collapse caused a significant elevation in financial system risk in the US, impacting other banks and (even though it was a business / tech sector focused bank) increasing consumer anxiety in relation to the overall banking system.⁸
- (b) Treasury has identified a number of arguments against including "competition" as a legislative objective for the RBNZ⁹
- (c) Giving the RBNZ a proactive competition objective risks undermining the RBNZ's core role¹⁰ and may not align with the Organisation for Economic Co-operation and Development's best-practice guidelines by providing potentially conflicting objectives.¹¹
- (d) Reflecting this, it is very uncommon for prudential supervisors to be given a competition mandate. This is shown in Figure 1 below.¹²

⁷ (3 September 2018). High-level financial policy objectives: Safeguarding the future of our financial system, *Phase 2 of the Reserve Bank Act Review*. Treasury and Reserve Bank of New Zealand. Retrieved from: <https://www.treasury.govt.nz/sites/default/files/2018-11/rb-4002552.pdf>

⁸ (27 March 2023). The Silicon Valley Bank collapse: What you need to know. Bank Rate. Retrieved from: <https://www.bankrate.com/banking/silicon-valley-bank-collapse/>

⁹ (3 September 2018). High-level financial policy objectives. Safeguarding the future of our financial system. *Phase 2 of the Reserve Bank Act Review*. Treasury and Reserve Bank of New Zealand. Retrieved from: <https://www.treasury.govt.nz/sites/default/files/2018-11/rb-4002552.pdf>

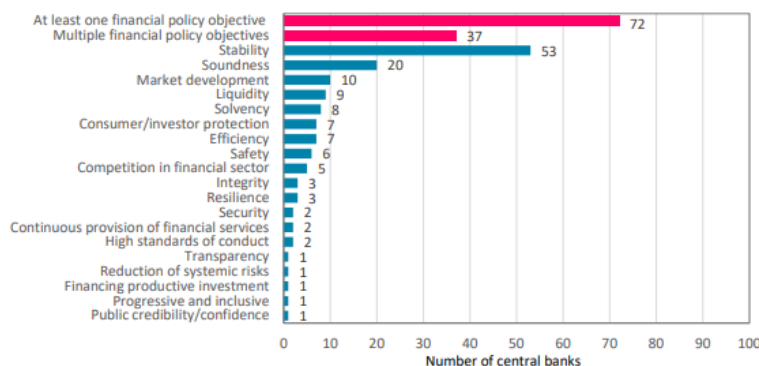
¹⁰ (3 September 2018). High-level financial policy objectives: Safeguarding the future of our financial system, *Phase 2 of the Reserve Bank Act Review*. Treasury and Reserve Bank of New Zealand. Retrieved from: <https://www.treasury.govt.nz/sites/default/files/2018-11/rb-4002552.pdf>

¹¹ See, for example: (June 2019). Safeguarding the future of our financial system. Treasury and Reserve Bank of New Zealand. Retrieved from: <https://www.treasury.govt.nz/sites/default/files/2019-06/rbnz-safeguarding-future-financial-system-2a.pdf>

¹² (June 2019). Safeguarding the future of our financial system. Treasury and Reserve Bank of New Zealand. Retrieved from: <https://www.treasury.govt.nz/sites/default/files/2019-06/rbnz-safeguarding-future-financial-system-2a.pdf>

Figure 1 – Financial system policy objectives for 100 central banks

Figure 2A: Financial system policy objectives for 100 central banks



Sources: IMF Central Bank Legislative Database, BIS, national legislation.

Notes: The chart shows the results of a survey of 100 central banks' primary legislation. Any such survey requires a degree of judgement as to what constitutes an 'objective' and may miss some objectives that are specified in sectoral or secondary legislation.

2.5 Any recommendations in the Final Report should consider the above and be made following a cost-benefit analysis.¹³

(2 A 2) New Zealand's regulatory standards must meet international standards to ensure access to funding and good outcomes for New Zealand consumers

2.6 Key regulators (and regulations) governing the New Zealand banking sector are subject to international independent scrutiny and benchmarking against best practice and standards.¹⁴ If New Zealand's regulators or regulations were to fall below expected standards in regulation, supervision and oversight of banks, this would impact the risk profile of the New Zealand banking sector and could hinder New Zealand banks' access to wholesale funding markets. The implications of higher costs or difficulties in accessing funding from international markets would result in worse outcomes for New Zealand consumers (for example an increase in home lending costs).

(2 A 3) Capital requirements have already been changed and will be competitively neutral by 2028

2.7 The Final Report must reflect the significant body of recent work by regulators and policy-makers to make capital requirements and the regulatory regimes competitively neutral, and allow those changes to take effect (and to observe their impacts on competition) before recommending further changes. For example:

- (a) The RBNZ already recognises the role of competition: When exercising functions, powers and duties under the Deposit Takers Act 2023 ("**DT Act**") the RBNZ already must take into account both:

¹³ The Commission acknowledges at paragraph [1.44] of the Draft Report that it has not undertaken a cost-benefit analysis when developing the draft recommendations.

¹⁴ Such as the Basel Framework, the 2016/17 International Monetary Fund Financial Sector Assessment Programme review, and the 2021 Financial Action Taskforce review of New Zealand's AML regime.

- (i) the proportionality principle¹⁵ - which it said last month involves "balancing the costs and benefits of regulation in relation to different types of deposit takers [so that] the public can benefit from not only a safe, sound and stable deposit-taking sector, but also one that can be diverse, innovative and inclusive";¹⁶ and
- (ii) the need to maintain competition within the deposit-taking sector.¹⁷

The Final Report should reflect this ongoing focus from the RBNZ.

- (b) Advantage of "IRB banks" has been mitigated: Following its 2019 Capital Review, the RBNZ identified that "IRB banks" did historically receive a capital advantage, and implemented steps to limit it - specifically, banks accredited to use the IRB approach cannot now have capital levels lower than 85% of the levels they would be required to hold under the RBNZ's standardised model. It was explicitly recognised that the changes would "help level the competitive playing field between large banks (which use their own models) and small banks (which use the RBNZ's models)".¹⁸ The changes took effect relatively recently, on 1 January 2022.
- (c) D-SIB banks need to hold additional capital, which brings the capital requirements of IRB and non-IRB banks closer together: As of 1 July 2023,¹⁹ domestic systemically important banks ("**D-SIBs**") are required to hold more capital (a 2% buffer) than other banks.²⁰ While the Draft Report states that the 2% buffer was aimed at systemic risk, not bringing the capital requirements of IRB and non-IRB banks closer together,²¹ BNZ notes:
 - (i) industry understood that the result would be to bring IRB and non-IRB banks' capital requirements closer together;²² and

¹⁵ Section 4(a)(i), Deposit Takers Act 2023

¹⁶ In its first statutory document released under the DT Act last month, the RBNZ specifically lays out its approach to regulating the range of deposit takers in New Zealand, while balancing the costs and benefits of regulatory requirements. See: (March 2024). Proportionality Framework for developing standards under the Deposit Takers Act. Reserve Bank of New Zealand. Page 2. Retrieved from: <https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/dta-and-dcs/the-proportionality-framework-under-the-dta.pdf>

¹⁷ Section 4(b), Deposit Takers Act 2023

¹⁸ (2019). Capital Review, Decisions 2019. Reserve Bank of New Zealand. Page 3. Retrieved from: <https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/consultations/banks/review-capital-adequacy-framework-for-registered-banks/decisions/capital-review-decisions.pdf>

¹⁹ (1 July 2022). Capital Requirements for banks in New Zealand. Reserve Bank of New Zealand. Retrieved from: [Capital requirements for banks in New Zealand - Reserve Bank of New Zealand - Te Pūtea Matua \(rbnz.govt.nz\)](https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/consultations/banks/review-capital-adequacy-framework-for-registered-banks/decisions/capital-review-decisions.pdf)

²⁰ The Reserve Bank consulted on a framework for identifying D-SIBs in 2019, and concluded that D-SIBs (currently ANZ, ASB, BNZ and Westpac) would be classified as such due to their size (between them holding almost 90% of banking system assets), interconnectedness, lack of substitutability and complexity. (28 February 2022). Requirements for domestic systemically important banks. Reserve Bank of New Zealand. Retrieved from: [Requirements for domestic systemically important banks - Reserve Bank of New Zealand - Te Pūtea Matua \(rbnz.govt.nz\)](https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/consultations/banks/review-capital-adequacy-framework-for-registered-banks/decisions/capital-review-decisions.pdf)

²¹ Draft Report [7.52].

²² For example, "Some submitters also supported a D-SIB buffer as a means of improving competition within the banking system. Heartland Bank stated that they support the D-SIB buffer as a means of 'levelling the playing field' between large and small banks". See: (2019). Capital Review. Consultation Paper 4: How much capital is enough. Response to submissions. Reserve Bank of New Zealand. Retrieved from: <https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/capital-review-hmcie-response-to-submissions.pdf>

- (ii) in any event, the intention is irrelevant in relation to its impact on competition – it has brought those capital requirements together.

Again, these D-SIB changes are relatively recent, and the RBNZ considers that the full impact will not be clear until 2028, once all changes are fully implemented and "[i]t is therefore too soon to reach strong conclusions and to fully assess the policy's impacts."²³ The RBNZ has said that it considers that the "impacts of the 2019 reforms on competition are likely to be beneficial".²⁴

- (d) From 2028 the capital requirements of the standardised and IRB approach will be near identical: The Draft Report significantly overstates the difference in capital base between the standardised and IRB approaches.²⁵ The Draft Report does not reflect that once all of the RBNZ's prudential / capital requirements have been implemented in 2028, the capital requirements of both approaches will be near identical. Applying current BNZ data²⁶ (overlaid with the 85% output floor (which has applied since 1 January 2022) and the countercyclical buffer (which will apply from 2028)) demonstrates that in 2028 there will be a negligible difference in the amount of capital that BNZ would require using the standardised approach compared to the IRB approach (namely, a [], which would amount to []. The intended "levelling of the playing field" is already in progress for home lending. These calculations are shown in Figure 2 below.

Figure 2 – BNZ's current experience of standardised versus IRB approach applying the 85% output floor and 2028 buffers

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²³ (March 2024). Biennial Assessment 2023: Monitoring Capital Review Implementation. Vol 87, No 3. Reserve Bank of New Zealand. Pages 3 and 16. Retrieved from: <https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/publications/bulletins/2024/rbb-2024-87-03.pdf>

²⁴ (2019). Capital Review. Consultation Paper 4: How much capital is enough. Response to submissions. RBNZ. Retrieved from: <https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/capital-review-hmcie-response-to-submissions.pdf>

²⁵ For completeness, BNZ notes that it would be more accurate to use total capital (rather than CET1) in these calculations, but that this does not make a material difference to the outcome.

²⁶ While the Draft Report applied a risk weighting of 37% for banks using the standardised approach (Draft Report [7.46.1]), which is said to be "the average risk weight observed among standardised banks in the years 2017 to 2022", BNZ's risk weighting for more recent times (2022 to 2024), reflecting current market conditions, is []. Accordingly, BNZ has used that risk weighting in its calculations.

(2 A 4) Other regulations are being simplified, but all regulations must continue to apply a risk-based approach to keep New Zealand consumers safe

- 2.8 The Draft Report suggests that the Government look at the regulatory framework of the AML / CFT regime and the Credit Contracts and Consumer Finance Act 2003 ("**CCCFA**") to reduce the unintended impacts on competition.²⁷ Reviews of these regimes are already underway to avoid unnecessary costs and consequences. The results of these current reviews should be implemented before considering further changes.
- 2.9 The Draft Report also queries the RBNZ taking a risk-based approach to setting levies for the Depositor Compensation Scheme ("**DCS**"),²⁸ instead of taking an approach that favours smaller deposit takers (irrespective of risk). It is important for the safety of New Zealand consumers that a risk-based approach is applied:
- (a) A flat rate or approach to the levy that favoured smaller deposit takers would not be proportionate to risk and could lead to excessive risk taking and moral hazard (and would, for those reasons, be inconsistent with the clear policy intent when the DCS was announced).²⁹
 - (b) A risk-based approach is important to ensure that levies are set in relation to the idiosyncratic risk of the individual deposit taker and with regard to the contribution to system risk posed by the deposit taker.
 - (c) New Zealand consumers should have the same protection from risk regardless of whether they choose to use a larger or smaller financial institution (consumer protection should not be sacrificed in support of smaller financial institutions).
- 2.10 Smaller deposit takers (if risk is not managed appropriately) can pose risks, not only for consumers, but also for the broader economy.³⁰ This was demonstrated in New Zealand where from 2006 onwards 51 finance companies went into liquidation or receivership, or froze payments, with associated costs to the Government and loss of money for many New Zealanders.³¹ This demonstrates that it is important that those risks are recognised. The calculation of DCS levies should not be used as a tool for competition policy.

(2 B) BNZ supports Open Customer Data done the right way, and is leading the market

- 2.11 BNZ supports the implementation of a well-designed Open Customer Data regime (what the Draft Report refers to as "Open Banking") through the introduction of a Consumer Data Right ("**CDR**"). For this, the Draft Report recommends a deadline of June 2026. BNZ is well positioned for that deadline, depending on the final requirements. We are market leading and have already developed a number of APIs to partner with Fintechs ([] and counting).³²

²⁷ For example, Draft Report [10.29 and 10.55].

²⁸ Draft Report [7.98 - 7.106].

²⁹ (22 September 2022). Depositor compensation scheme protects Kiwis' money. New Zealand Government. Retrieved from: <https://www.beehive.govt.nz/release/depositor-compensation-scheme-protects-kiwis%E2%80%99-money>

³⁰ (1 September 2007). How finance company collapses affect rest of the economy. NZ Herald. Retrieved from: <https://www.nzherald.co.nz/business/how-finance-company-collapses-affect-rest-of-the-economy/MBPEJA6A16MS3RHFN7W7KP5KSE/>

³¹ (1 February 2023). NZ finance company collapses (2006-2012). FMA. Retrieved from: <https://www.fma.govt.nz/about-us/enforcement/cases/finance-company-collapses/>

³² BNZ anticipates partnering with [] Fintechs before the end of 2024.

- 2.12 It is not the willingness or technical capability of BNZ (or even other banks) that is the key requirement for the implementation of a successful Open Customer Data regime from 2026. Rather, there are four critical regulatory pillars to establishing a CDR, and therefore, to enable customers to share their data safely and securely in the context of an Open Customer Data regime:
- (a) Customers need to have control of their data: Customers must be able to choose who their data goes to, for what use, and for how long (i.e. consumers must be able to terminate data sharing when they no longer wish to share their data).
 - (b) Security standards that must be adhered to: There must be robust and mandatory security standards for those receiving data.
 - (c) Accreditation for participants: There must be a robust accreditation regime for those that handle customer data.
 - (d) Liability must shift with the data: Once data is moved out of a provider's environment, the provider can no longer be liable for the use or control of that data (for example, a bank cannot continue to be liable for data that is moved outside of its environment to a Fintech).

(2 C) BNZ supports access to basic bank accounts and already offers one

- 2.13 The Draft Report identified concerns in relation to the availability of "basic bank accounts", and accordingly recommended that the industry work to ensure widespread availability and awareness of industry-standard basic bank accounts.³³
- 2.14 BNZ already offers what we consider to be a basic bank account (YouMoney).³⁴ It is free to join (can be opened online or in branch); free to hold (no regular fee for having the account); and free to access (can be linked to a fee-free Flexi Debit Visa Card). Any other fees are low or triggered by a service request by the customer (e.g. to set up a staff-assisted automatic payment).
- 2.15 To the extent that AML / CFT onboarding requirements might inhibit some New Zealanders from opening basic bank accounts,³⁵ the Ministry of Justice's proposed changes to the "proof of address" rules should significantly improve this. Any further Government decisions to change AML / CFT requirements must also:
- (a) ensure New Zealand's regulatory framework continues to meet minimum international standards (see paragraph 2.6 above); and
 - (b) be balanced against, for example, the increased fraud / scam risks which could result (for example, through the use of "mule" accounts), and, therefore, would be

³³ Draft Report [10.98].

³⁴ Overdrafts are available on application and unarranged overdrafts are managed with the customer to minimise.

³⁵ As found in the report by Westpac NZ in April 2023, which indicated that the AML / CFT regulatory requirements were the key impediment to some customers opening a basic bank account: (April 2023). Westpac NZ Access to Banking in Aotearoa Report. Westpac NZ. Retrieved from: <https://www.westpac.co.nz/assets/Personal/life-money/documents/Westpac-NZ-Access-to-Banking-in-Aotearoa-Report.pdf>

a policy decision that would require a cost-benefit assessment (i.e. enhancing accessibility versus risking greater fraud / scam risks).

- 2.16 In addition, banks must retain the right to not offer banking services or to stop providing services to a customer where we consider the bank account is, or is at risk of, being used in relation to illegal or other product misuse purposes (whether that be AML / CFT, fraud, criminal activities, modern slavery, human trafficking, or child labour issues) and to terminate an account after a long-period of inactivity.

(2 D) BNZ supports prioritising work to reduce barriers to lending on Māori Freehold Land

- 2.17 BNZ has recognised the issue of raising finance against Māori Freehold Land and fully supports the Commission's recommendation for industry and Government to prioritise work to reduce barriers to lending on Māori Freehold Land. That recommendation aligns with steps that BNZ has already taken to drive better outcomes for Māori, as described in BNZ's PIP Submission (including delivering a framework that has resulted in funding support for a housing project on iwi owned land in Tāmaki Makaurau).³⁶ We believe this framework has potential for broader application among other iwi and we have offered to share this approach with other banks in the hope this promise can be realised.

(2 E) BNZ supports providing clear information to consumers in relation to the costs of home loans

- 2.18 BNZ is committed to empowering our customers with clear information so that they can make the best decisions to plan ahead for their future. We will continue to ensure that we present our information to customers in the clearest way possible.
- 2.19 In terms of any recommendations relating to common industry disclosures or disclosures of an "effective interest rate", any information presented to consumers must be consistent with the disclosure requirements of the CCCFA. Since multiple factors impact on the cost of home loans (including relating to interest rate changes and certain product features), it is critical that any information presented to customers is accurate and not misleading or confusing.

(2 F) BNZ supports the pro-rating of clawbacks of home loan cash contributions from customers (and that is consistent with its current practice)

- 2.20 BNZ agrees with the principle that "clawbacks" from customers should be pro-rated, and notes that is consistent with its current approach - namely, BNZ pro-rates its "clawbacks" on a linear basis by 25% per year, diminishing to zero once four years have passed.³⁷

(2 G) Home loan advisers (brokers) can serve customers and competition well

- 2.21 BNZ is willing to have further conversations with the Commission, home loan advisers and customers on ways to ensure home loan advisers continue to serve customers well, while ensuring no issues arise relating to conflicted remuneration. BNZ has a strong proprietary

³⁶ (7 September 2023). Bank of New Zealand's submission on the Commerce Commission's preliminary issues paper regarding the market study into personal banking services at [6.18].

³⁷ For example, see the terms of BNZ's current "cash back" offer: <https://www.bnz.co.nz/personal-banking/home-loans/cash-back-home-loan-offer#small-print>

channel through which the majority of our home loans are arranged, but we also recognise the customer needs that home loan advisers serve and the desirability of maintaining a strong home loan adviser channel in New Zealand.

(2 H) BNZ supports promoting the Payments NZ switching service

2.22 The Draft Report identified a "perceptions gap" (not a "functionality gap") in relation to switching.³⁸ That suggests any gap can be addressed by improving consumer perceptions. To this end, BNZ supports enhancing consumer use of the Payments NZ switching service, both through promotion of the service through individual banks, and through a public awareness campaign run by Payments NZ. As the Australian Competition and Consumer Commission noted in relation to the UK's switching service (CASS), it was ultimately promotion and public awareness that drove its uptake:³⁹

The UK's Financial Conduct Authority (FCA) conducted a review of the effectiveness of CASS in 2015 and found that CASS had made the switching process simpler and easier, but its impact on overall rates of switching had been limited due to lack of awareness of the services, or how to use it, meaning that perceived barriers remained prohibitive.

To address these issues CASS's operator implemented the following measures to address the FCA's key findings:

- A public awareness campaign across traditional and digital media channels in prime-time advertising slots which focused on market segments where switching was lowest. The result of this initial campaign was a steep increase in consumer awareness in a 3-month period from 70% to 77%.
- Increased consumer confidence in the initiative through emphasising the error-free nature and robustness of the switching process as well as increasing the number of participating banks and ensuring they are using their own channels to promote CASS.

2.23 Recognising also that within the near future a well-developed CDR / Open Customer Data regime will further facilitate consumer switching, irrespective of any Payments NZ switching service, the Final Report's recommendations should focus on enhancing the promotion and public awareness of the existing Payments NZ switching service.

³⁸ Draft Report [8.45]. That is consistent with Consumer NZ research that notes: "There is a perception that it's hard to switch banks, but our survey results suggest it's easier than we think. Of those respondents who had made the switch, nearly 40% said switching was very easy, and another 36% said it was easy. Only 18% thought it was difficult." See: (Autumn 2024). Is switching banks easy? Consumer. Issue 623.

³⁹ (December 2023). Retail deposits inquiry. Final report. ACCC. Page 138. Retrieved from: <https://www.accc.gov.au/system/files/Retail-deposits-inquiry-final-report.pdf>

Part [3]: Our views on the Draft Report's findings

(3 A) The evidence does not support the Draft Report's findings that there is a lack of competition

3.1 As outlined in our PIP Submission, in BNZ's experience, the New Zealand personal banking sector delivers competitive outcomes that are in the interests of New Zealand consumers, with New Zealand consumers having access to world-leading personal banking services, including in terms of pricing, choice, innovation, accessibility, resilience, and service quality.

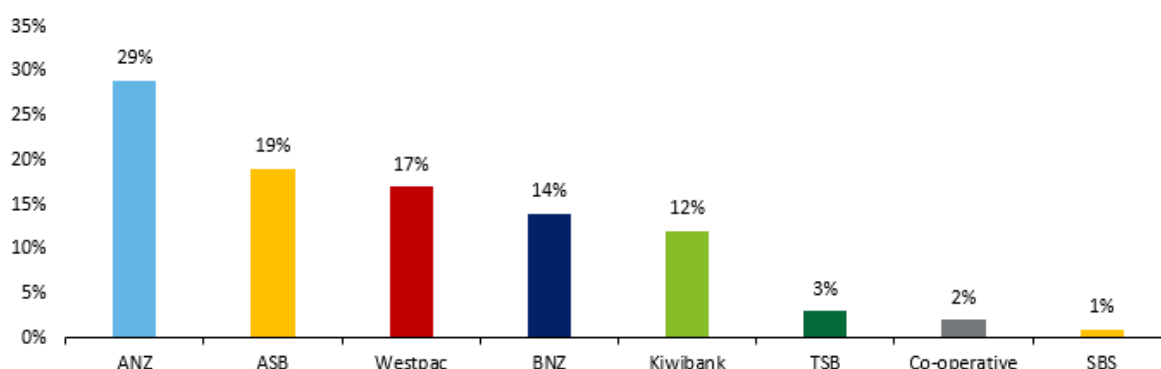
3.2 We do not consider that the evidence cited in the Draft Report supports the preliminary findings "that competition [in personal banking] is sporadic and limited and that the major banks represent a stable oligopoly with no meaningful competitive constraint apart from Kiwibank, which is not currently a disruptive force".⁴⁰ This is outlined further below.

(3 A 1) The Draft Report understates the extent of competition, including from Kiwibank

3.3 The Draft Report significantly understates the extent of competition in the personal banking sector. That includes understating the competitive role that Kiwibank plays. Demonstrating this:

(a) The Commission's own research highlights that Kiwibank and BNZ are effectively the same size on "main bank" share, at 12% and 14% respectively⁴¹ (with the Draft Report describing "main bank" relationships as "an important focus for competition").⁴² See Figure 3 below.

Figure 3 – Main bank relationships reported by consumers



Source: Verian

(b) The Draft Report states that:

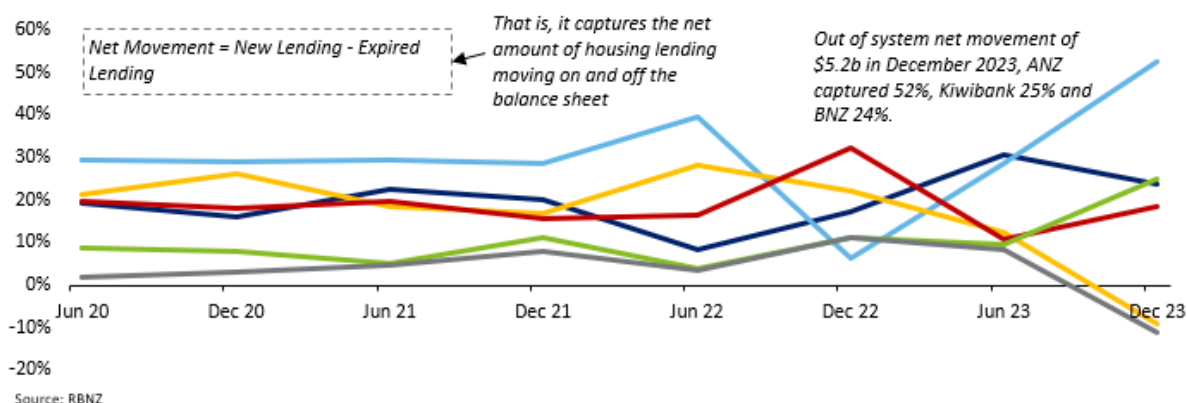
⁴⁰ Draft Report [10.42]

⁴¹ Draft Report [Figure 2.1].

⁴² Draft Report [Page 32].

- (i) "Kiwibank stands out as the only provider that has grown consistently at or above system growth over the four-year period",⁴³ with Kiwibank having achieved "strong and consistent" growth;⁴⁴ and
 - (ii) "Kiwibank is considered a relevant competitor by the major banks",⁴⁵ including that when setting both home loan and deposit rates the "major banks" focus closely on Kiwibank.⁴⁶
- (c) While the Draft Report states that "Kiwibank's home lending portfolio is... less than half the size of BNZ's",⁴⁷ and that "shares of supply have been stable for some years",⁴⁸ neither statement reflects current competitive dynamics. This is demonstrated in Figure 4 below, which shows various banks' share of the home lending system's net volume movement.⁴⁹ Notably, Kiwibank's share has increased from 7.8% in the six months to December 2020 to 25% in the six months to December 2023, and is now very close to BNZ's share of 23.9%.⁵⁰

Figure 4 – Share of New Zealand home lending system net volume movement⁵¹



3.4 In addition to understating the competitive role of Kiwibank, the Draft Report understates the role of BNZ. []⁵² [] is also shown in Figure 4 above.

⁴³ Draft Report [4.13.3].

⁴⁴ Draft Report [4.53].

⁴⁵ Draft Report [4.36.2].

⁴⁶ Draft Report [4.37 and 5.38].

⁴⁷ Draft Report [4.48].

⁴⁸ Draft Report [1.32].

⁴⁹ This figure has been calculated by dividing Kiwibank's home loan lending volume for the six months to December 2023 by the net volume change in home loan lending volumes in the total system for the six months to December 2023.



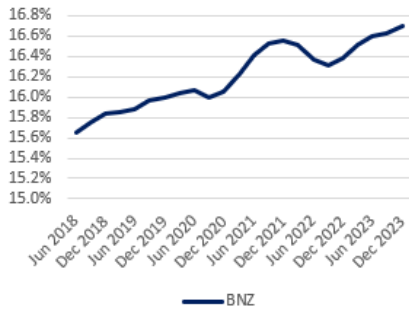
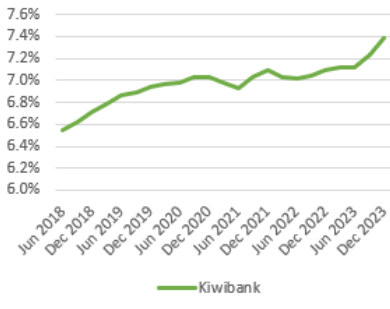
⁵⁰ Media has reported on this growth by Kiwibank. For example: (22 February 2024). Kiwibank accounted for 25% of all bank mortgage lending in Dec half year. Good Returns. Retrieved from: <https://www.goodreturns.co.nz/article/976522815/kiwibank-accounted-for-25-of-all-bank-mortgage-lending-in-dec-half-year.html>

⁵¹ Key: light blue is ANZ, dark blue is BNZ, green is Kiwibank, red is Westpac, gold is ASB, and grey is other banks.

⁵² [].

3.5 In the ANZ / National Bank clearance decision that the Commission cites as a comparison,⁵³ the Commission identified ASB would be a key competitive constraint post-merger⁵⁴ because it (a) had growing market share,⁵⁵ and (b) had been advertising that it is easy to switch to their banks.⁵⁶ Those same factors apply today in relation to both Kiwibank and BNZ – as shown in Figure 5 below.

Figure 5 – Comparison of BNZ and Kiwibank to factors the Commission cited in ANZ / National Bank

																																																						
Advertises that it is easy to switch banks ⁵⁷	<p>✓</p> <p>Move your banking to BNZ</p> <p>It's easy and hassle-free to move your everyday banking to us. Plus, there are loads of great benefits.</p> <p>Start the switch Let us help you switch</p>	<p>✓</p> <p>Switching is easy</p>																																																				
Is growing home lending market share ⁵⁸	<p>✓</p> <p>BNZ</p>  <table border="1"> <caption>BNZ Home Lending Market Share (%)</caption> <thead> <tr> <th>Date</th> <th>Market Share (%)</th> </tr> </thead> <tbody> <tr><td>Jun 2018</td><td>15.6</td></tr> <tr><td>Dec 2018</td><td>15.8</td></tr> <tr><td>Jun 2019</td><td>15.9</td></tr> <tr><td>Dec 2019</td><td>16.0</td></tr> <tr><td>Jun 2020</td><td>16.1</td></tr> <tr><td>Dec 2020</td><td>16.2</td></tr> <tr><td>Jun 2021</td><td>16.5</td></tr> <tr><td>Dec 2021</td><td>16.4</td></tr> <tr><td>Jun 2022</td><td>16.6</td></tr> <tr><td>Dec 2022</td><td>16.7</td></tr> <tr><td>Jun 2023</td><td>16.7</td></tr> <tr><td>Dec 2023</td><td>16.7</td></tr> </tbody> </table>	Date	Market Share (%)	Jun 2018	15.6	Dec 2018	15.8	Jun 2019	15.9	Dec 2019	16.0	Jun 2020	16.1	Dec 2020	16.2	Jun 2021	16.5	Dec 2021	16.4	Jun 2022	16.6	Dec 2022	16.7	Jun 2023	16.7	Dec 2023	16.7	<p>✓</p> <p>Kiwibank</p>  <table border="1"> <caption>Kiwibank Home Lending Market Share (%)</caption> <thead> <tr> <th>Date</th> <th>Market Share (%)</th> </tr> </thead> <tbody> <tr><td>Jun 2018</td><td>6.4</td></tr> <tr><td>Dec 2018</td><td>6.6</td></tr> <tr><td>Jun 2019</td><td>6.8</td></tr> <tr><td>Dec 2019</td><td>6.9</td></tr> <tr><td>Jun 2020</td><td>7.0</td></tr> <tr><td>Dec 2020</td><td>7.0</td></tr> <tr><td>Jun 2021</td><td>7.0</td></tr> <tr><td>Dec 2021</td><td>7.1</td></tr> <tr><td>Jun 2022</td><td>7.1</td></tr> <tr><td>Dec 2022</td><td>7.2</td></tr> <tr><td>Jun 2023</td><td>7.3</td></tr> <tr><td>Dec 2023</td><td>7.4</td></tr> </tbody> </table>	Date	Market Share (%)	Jun 2018	6.4	Dec 2018	6.6	Jun 2019	6.8	Dec 2019	6.9	Jun 2020	7.0	Dec 2020	7.0	Jun 2021	7.0	Dec 2021	7.1	Jun 2022	7.1	Dec 2022	7.2	Jun 2023	7.3	Dec 2023	7.4
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3.6 Further, the Commission's description of Macquarie as a "maverick" in Australia,⁵⁹ could equally apply to Kiwibank:

⁵³ Draft Report [1.30].

⁵⁴ (25 September 2003). Commerce Commission Decision No. 507. ANZ Banking Group (New Zealand Limited) and NBNZ Holdings Limited at [332].

⁵⁵ (25 September 2003). Commerce Commission Decision No. 507. ANZ Banking Group (New Zealand Limited) and NBNZ Holdings Limited at [332].

⁵⁶ (25 September 2003). Commerce Commission Decision No. 507. ANZ Banking Group (New Zealand Limited) and NBNZ Holdings Limited at [232].

⁵⁷ See:

- <https://www.bnz.co.nz/personal-banking/everyday-banking/switch-your-banking-to-bnz>
- <https://www.kiwibank.co.nz/join-kiwibank/>

⁵⁸ Data drawn from the RBNZ Bank Financial Strength Dashboard at <https://bankdashboard.rbnz.govt.nz/summary>

⁵⁹ Draft Report [2.70].

- (a) Macquarie has a similar (in fact, smaller) share in Australia (5.3% in home lending)⁶⁰ to Kiwibank in New Zealand (which has a share of 7.3%);⁶¹ and
 - (b) as the DAE Report identifies, overall Kiwibank's volume share is at least 50% of either BNZ or Westpac at a regional level, which is higher than Macquarie's in Australia, which was found to have a market share of a third of the next closest competitor.
- 3.7 We request the Commission reflect further on the dynamics described above in assessing the competitive role of Kiwibank (and BNZ) in the personal banking sector.
- (3 A 2) The economic evidence is not consistent with a finding that there is a stable oligopoly or coordination in the sector*
- 3.8 The economic evidence in the DAE Report⁶² also does not support a finding of a "stable two-tiered oligopoly, with Kiwibank 'stuck' in the middle and [a] risk of tacit coordination".⁶³
- 3.9 Rather, the DAE Report finds that there is evidence to suggest that "competition in personal banking services is more dynamic and effective than the stable oligopoly found by the Commission in its Draft Report", including as:⁶⁴
- (a) Market concentration for personal banking services is only moderate (based on the Commission's own econometric paper) and has decreased notably between 2016 and 2022.⁶⁵
 - (b) The evidence indicates that switching is increasing for some products in the sector.⁶⁶
 - (c) The Draft Report understates the competitive constraint that Kiwibank imposes, including as the evidence demonstrates that:
 - (i) Kiwibank's constraint is greater than that implied by current market shares alone;⁶⁷
 - (ii) Kiwibank acts as a constraint on the pricing of ANZ, ASB, Westpac and BNZ pricing;⁶⁸
 - (iii) Kiwibank has been growing at levels above 'system' growth, demonstrating it is successfully winning market share off competitors;⁶⁹ and

⁶⁰ (13 February 2024). Macquarie unveils its major mortgage market ambitions. AFR. Retrieved from: <https://www.afr.com/companies/financial-services/macquarie-unveils-its-major-mortgage-market-ambitions-20240213-p5f4k6>

⁶¹ Draft Report [4.6].

⁶² See Table 2 of the DAE Report for a summary of DAE's findings.

⁶³ DAE Report [Page 6].

⁶⁴ DAE Report [Page 7].

⁶⁵ DAE Report [70].

⁶⁶ DAE Report [95].

⁶⁷ DAE Report [9.2].

⁶⁸ DAE Report [9.2].

⁶⁹ DAE Report [9.2].

- (iv) the Verian survey data suggests that consumers currently see Kiwibank as a close competitor or alternative to ASB, Westpac and BNZ in particular.⁷⁰
- (d) The evidence demonstrates that there is price competition in the market, and that competitors are not tacitly coordinating around “focal points” when setting prices:
 - (i) there is no apparent price leader for headline rates across mortgages and term deposits (which means firms are unlikely to be able to reach mutually acceptable outcomes);⁷¹
 - (ii) DAE's empirical analysis of pricing indicates dynamism in pricing for mortgages and term deposits and that most banks respond to other banks' advertised rates, irrespective of their size or structure;⁷²
 - (iii) the presence of discretionary discounts adds differentiation and reduces price transparency;⁷³ and
 - (iv) non-price factors are also an important dimension in driving consumer choice and competitive responses across the sector.⁷⁴
- (e) To the extent there have been periods of less intense competition identified by the Commission, those coincide with periods of heightened economic uncertainty and liquidity interventions by the RBNZ (in particular arising from COVID-19), whereas other periods have been characterised by more intense competition.⁷⁵
- (f) To the extent there is price-matching in the sector, that could be interpreted as more a reflection of competitive behaviour and competition at work (rather than tacit coordination).⁷⁶
- (g) There are regional differences in competition, which suggests that smaller banks (and even non-banks, in the case of Nelson) are able to exercise increased competitive pressures in specific market segments or geographies, which:
 - (i) is not consistent with the finding of a "stable oligopoly"; and
 - (ii) suggests the Draft Report understates the role of smaller competitors (see paragraphs 3.10 - 3.12 immediately below).

(3 A 3) The Draft Report understates the role of other smaller providers

- 3.10 While the Draft Report largely sidelines smaller bank and non-bank competitors, we compete on a daily basis with a wide range of key competitors operating different business models, including smaller banks and non-bank competitors.

⁷⁰ DAE Report [63].

⁷¹ DAE Report [41].

⁷² DAE Report [26].

⁷³ DAE Report [51].

⁷⁴ DAE Report [47].

⁷⁵ DAE Report [82].

⁷⁶ DAE Report [40].

3.11 The Draft Report understates the competitive role of these other competitors, and in a way that is not justified by the evidence in the Draft Report. In particular:

- (a) The Commission's survey data shows that 30% of New Zealanders would consider banks / non-bank providers beyond ANZ, ASB, BNZ, Kiwibank or Westpac as their "main bank" provider.⁷⁷ That is a significant number of New Zealanders that would consider a "main bank" relationship with a competitor outside of the competitive set that the Draft Report focused on.
- (b) The Draft Report notes that residential mortgage lending by non-bank deposit takers and non-deposit lenders is, proportionately, growing much faster than mortgage lending by banks.⁷⁸
- (c) The fact that the Commission found that smaller banks are "from time to time become overwhelmed by application volumes"⁷⁹ demonstrates that "brand" is not an impediment to smaller banks attracting customer switching.
- (d) Of the factors that the Commission outlined as enabling "major banks... to closely track one another on a number of important aspects of competition",⁸⁰ those metrics are also all available to smaller banks to assist them in their market intelligence in competing in the sector.
- (e) While the Draft Report excluded Rabobank from the assessment of competition in the personal banking sector on the basis that it "is focused on serving rural and agribusiness needs",⁸¹ that is not accurate. One of the sources of funding for Rabobank's lending in the rural / agribusiness sector is term deposits and savings accounts for personal banking customers. BNZ also notes that customers regularly refer to Rabobank (and other smaller competitors) when they advertise special rates, and so those competitors inevitably impact pricing in the market.

3.12 Further:

- (a) The DAE Report shows that in some regions certain smaller banks / non-bank competitors have a significantly larger market share than their national share. This "highlights that competition can differ across regions, and suggests that smaller banks (and even non-banks, in the case of Nelson) are able to exercise increased competitive pressures in specific market segments or geographies".⁸² This is shown in Figure 6 below.

⁷⁷ Draft Report [8.18 and Figure 8.2].

⁷⁸ Draft Report [Figure B6].

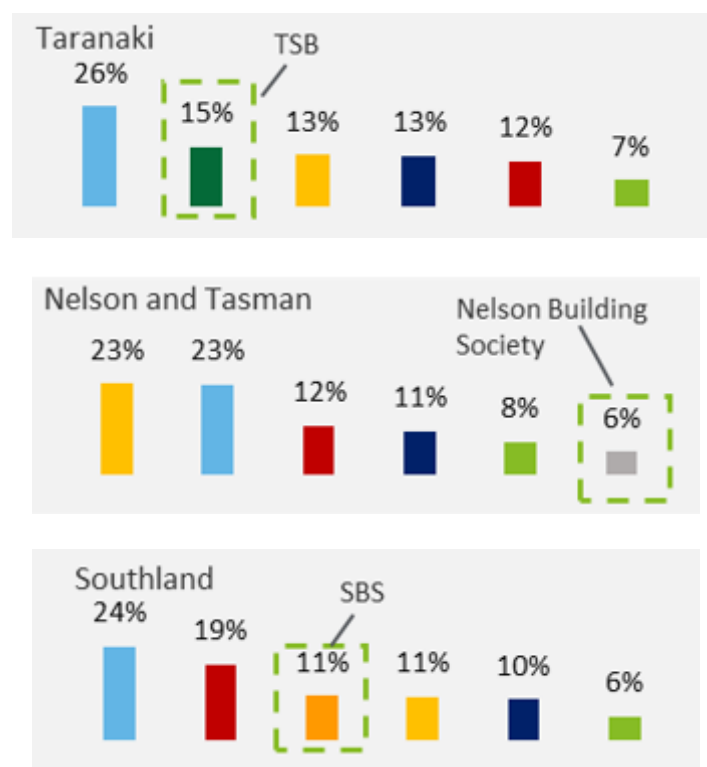
⁷⁹ Draft Report [4.89].

⁸⁰ Draft Report [4.94].

⁸¹ Draft Report [Footnote 16].

⁸² DAE Report [35].

Figure 6 – Estimated regional volume share of mortgages from 1 January 2023 to 6 December 2023⁸³



- (b) While the Draft Report focused on a view that larger banks have a cost advantage due to the regulatory regimes (which we consider is overstated for the reasons outlined at paragraph 2.7 above), the Final Report needs to recognise that in many areas smaller competitors and new entrants have a cost advantage as a result of:
- (i) not operating on legacy systems (that can be costly and complex to update);
 - (ii) not maintaining a physical branch network for customers; and
 - (iii) (in the case of online-only banks and financial service firms) not needing to incur costs to safeguard and move cash.

As newer Australian bank Judo has observed:⁸⁴

... the small to medium-sized business lender is unencumbered by the legacy core banking systems that burden larger rivals, adding at least 15 per cent and as much as 30 per cent of costs through a “complexity tax”.

⁸³ DAE Report [Figure 3]. Key: light blue is ANZ, dark blue is BNZ, dark green is TSB, light green is Kiwibank, red is Westpac, gold is ASB, grey is Nelson Building Society, orange is SBS.

⁸⁴ (1 May 2023). Judo wants to be the leanest bank in Australia. AFR. Retrieved from: <https://www.afr.com/companies/financial-services/judo-wants-to-be-the-leanest-bank-in-australia-20230501-p5>.

The reality is we have a structural competitive cost advantage because we have a purpose-built, cloud-based technology stack.

- (c) The example of the “green home loan top-ups” was not, as suggested by the Draft Report, an example of “the major banks matching rather than beating each other’s competitive offers”.⁸⁵ The Draft Report, in fact, shows that the interest rate on most offerings was 0% (which is already as low as possible) and that, over time, banks iteratively improved their offerings by expanding what the top-up could cover and the maximum value (rather than simply matching the first product offered by Kiwibank). For example, Westpac “price beat” Kiwibank by offering the 0% fixed fee at the outset (Kiwibank offered a variable rate).

(3 A 4) The Draft Report does not fully reflect the importance of customer satisfaction and multi-homing as reasons for switching rates

3.13 The Draft Report’s interpretation of the extent of customer switching overstates the extent of “customer inertia”,⁸⁶ and understates the importance of customer satisfaction and “multi-homing” in the sector. In particular:

- (a) The evidence (as set out at paragraph 2.21 of our PIP Submission) demonstrates customer switching and churn in the personal banking sector.
- (b) Customers appear to be happy with their current provider. The Verian report found that “happy with current provider”⁸⁷ is the main reason not to switch at 44% (versus only 12% who said “too hard” was their main reason not to switch). Customer satisfaction with New Zealand banks is generally high and any perception of a lack of switching simply reflects that customers are satisfied they are already receiving competitive prices, service and products and so have not needed to switch.⁸⁸
- (c) Consumers do not find switching to be difficult, rather, there are perceived difficulties⁸⁹ (which the Commission described as a “perceptions gap”).⁹⁰ A net 62% of actual switchers found it easy (and only 8% found it difficult), which demonstrates that switching is very possible and, therefore, a “credible threat” as a competitive constraint on banking providers. As the Commission will be aware, it is the “credible threat” of switching (not necessarily actual switching) that is sufficient to drive competitive outcomes.⁹¹

⁸⁵ Draft Report [2.49].

⁸⁶ Draft Report [9.72].

⁸⁷ (February 2024). Personal banking services market study. Research report. Verian. Page 43.

⁸⁸ The Draft Report noted that the levels of switching could be because the majority of customers are happy where they are and have taken up home loan products on terms that suit them well. “Indeed, our survey found that the majority of those that haven’t considered switching reported having no reason to (61%).” See Draft Report [4.107].

⁸⁹ Draft Report [Figure 8.4].

⁹⁰ Draft Report [8.45].

⁹¹ As the Commission noted in *Woolscourers Limited / Cavalier Wool Holdings / Godfrey Hirst* (Decision 666, 6 March 2009): “the Commission is of the view that merchants would continue to have the ability to switch, **or to credibly threaten to switch**, and for that reason would be likely to continue to exercise significant countervailing power in the factual”. [emphasis added].

- (d) The Draft Report understated the importance of multi-homing as a competitive dynamic in the sector:
- (i) Multi-homing is a significant feature of the personal banking market in New Zealand. Additionally, customers pick and choose between their existing providers for different services without regarding that as a "switch" (as the Draft Report notes, accounts are often added rather than replaced).
 - (ii) New Zealand customers have on average [] banking relationships.⁹² This figure is even higher than the 1.6 average banking relationships that the Verian survey suggested, which the Draft Report acknowledged as being a good indication that consumer multi-homing habits are increasing.⁹³ This figure has also been described by the Financial Conduct Authority ("FCA") as a "positive development" for competition.⁹⁴

3.14 The Final Report needs to reflect the dynamics described above before concluding that there is "customer inertia" or lower levels of switching than would be expected in a competitive market. It also needs to give appropriate prominence to the positive findings of the Verian survey that indicated the personal banking sector is highly competitive (instead of elevating findings that could be interpreted negatively in relation to competition).

(3 B) The Draft Report does not evidence excess returns or profits

3.15 For all the reasons set out in Part [4] of BNZ's PIP Submission, BNZ does not consider that the profitability and returns in the New Zealand banking sector suggest there is a lack of competition. While BNZ does not intend to re-traverse those points in this Submission, the following points in the Draft Report require further consideration:

- (a) The Draft Report understates the impact of New Zealand's higher risk-free rate: The Draft Report significantly understates the importance of New Zealand having a materially higher risk-free rate than other jurisdictions. In particular, the Draft Report (citing Figure C6) states that "New Zealand's risk-free rate has aligned more closely with other countries in our peer sample" and, therefore, it is "not obvious that there is a clear link between the risk-free rate and bank returns".⁹⁵ That is not a correct reading of Figure C6. In fact, Figure C6 shows that the risk-free rate in New Zealand has been consistently at or above the upper quartile benchmark, and significantly and persistently above the median.
- (b) The Draft Report incorrectly states that New Zealand is lower risk than other jurisdictions: The Draft Report suggests the New Zealand personal banking sector is lower risk, and therefore justifies lower returns, than overseas peers because it is "'plain vanilla' due to the large proportion of bank assets being loans to

⁹² BNZ submitted that as of June 2023, of 13,458 consumers surveyed, on average they had [] banking relationships.

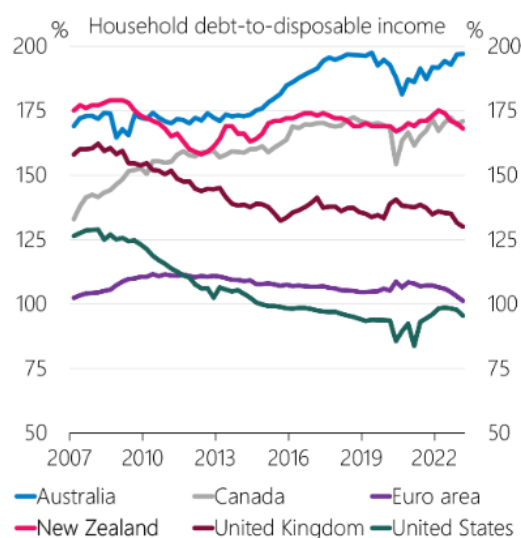
⁹³ Draft Report [2.9].

⁹⁴ The FCA's Strategic Review of Retail Banking Business Models found that "on average, each adult in the UK now has approximately 1.9 current accounts. We believe that **this is a positive development for competition** as it allows consumers to try out different products and build trust in other brands". See: (January 2022). Strategic Review of Retail Banking Business Models – Final Report. Financial Conduct Authority. Retrieved from: <https://www.fca.org.uk/publication/multi-firm-reviews/strategic-review-retail-banking-business-models-final-report-2022.pdf>

⁹⁵ Draft Report [C58].

households".⁹⁶ The assumption that home loans are, by default, lower risk, or that this demonstrates that the New Zealand personal banking sector is lower risk than overseas, is not correct. As the RBNZ has noted, there are a number of different factors that determine the risk of home lending, including the ratio of household debt to disposable income (which is higher in New Zealand than a number of comparable peers, see Figure 7 below), and (in times of rising interest rates) the share of home loans on shorter fixed terms (which is higher in New Zealand than a number of comparable peers).⁹⁷ The International Monetary Fund also observed in July 2023 that New Zealand banks' high exposure to housing creates a domestic risk.⁹⁸

Figure 7 – Household debt to disposable income⁹⁹



Further, while the Commission states that it assesses "New Zealand's risks... as being broadly similar to those of other developed countries",¹⁰⁰ as a smaller nation that is dependent on trading food and agricultural products, New Zealand will necessarily be perceived as higher risk than many of our larger peer countries (such as Australia and the US). As Allianz Research has noted in its 2024 "Country Risk Atlas":¹⁰¹

⁹⁶ Draft Report [B6].

⁹⁷ (30 October 2023). An international perspective on the financial stability implications of higher interest rates. RBNZ. Retrieved from: <https://www.rbnz.govt.nz/hub/publications/financial-stability-report/2023/nov-2023/fsr-nov-23-special-topic>.

⁹⁸ (14 July 2023). Staff Report for the 2023 Article IV Consultation, IMF Country Report No. 23/309, International Monetary Fund at page 8. Retrieved from: [New Zealand: 2023 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for New Zealand \(imf.org\)](https://www.imf.org/en/Publications/Country-Reports/2023/07/14/23-309-New-Zealand)

⁹⁹ (30 October 2023). An international perspective on the financial stability implications of higher interest rates. RBNZ. Retrieved from: <https://www.rbnz.govt.nz/hub/publications/financial-stability-report/2023/nov-2023/fsr-nov-23-special-topic>.

¹⁰⁰ Draft Report [C65].

¹⁰¹ (January 2024). Country Risk Atlas 2024: Assessing non-payment risk in major economies. Allianz Research. Retrieved from: https://www.allianz.com/content/dam/onemarketing/azcom/Allianz_com/economic-research/publications/specials/en/2024/january/Country-Atlas-2024-AZ.pdf

More generally, New Zealand's trade structure leaves it vulnerable to external shocks: (i) China is New Zealand's main trade partner, accounting for nearly 30% of its exports and nearly 25% of its imports in 2022. (ii) Australia and the US are the second and third largest trade partners, with significant shares, making New Zealand dependent on the business cycles of these economies. (iii) New Zealand's exports also rely very heavily on food and agricultural products and are therefore exposed to weather hazards.

This is also reflected in the most recent S&P Global credit ratings update. S&P expressly equalises issuer credit ratings on the four major New Zealand banks with their respective Australian parents. However, the "stand-alone credit profile" of each of those New Zealand banks is three notches lower than the equalised rating. That is, the New Zealand banks are seen as implicitly higher risk but are given a credit-rating benefit based on their relationship with an Australian parent.¹⁰² A higher risk jurisdiction requires higher returns to justify investment.

- (c) The Draft Report understates New Zealand's TAMRP: Connected to the above, the Draft Report understates New Zealand's tax adjusted market risk premium ("TAMRP"). In particular, while the Commission cites analysis prepared for it in the context of its regulatory work as showing that "New Zealand's median TAMRP across various methodologies is the same as for comparator countries when rounded to the nearest 0.5%",¹⁰³ at 7.0%, we note that the Commission recently used a TAMRP of 7.5% in its fibre input methodologies,¹⁰⁴ and that rounding to 0.5% is not insignificant when seeking to make cross-country comparisons.

3.16 The accompanying DAE Report also identifies aspects of the Draft Report's findings in relation to profitability that DAE considers are inconsistent with the economic theory and evidence. Namely that:

- (a) analysis of accounting and economic measures of efficiency suggests that New Zealand's banks (especially larger banks) are efficient and are likely to be not only using inputs in an efficient manner, but also using an efficient combination of inputs (rather than there being evidence that banks are "sweating"¹⁰⁵ assets in an inefficient or non-competitive way);¹⁰⁶ and
- (b) it is necessary to look at the levels of efficiency of the marginal firm, rather than seeking to draw conclusions about competition based on the returns of the most efficient firms.¹⁰⁷

¹⁰² (2 April 2024). Most Non-Major Australian Banks Upgraded On Strengthened Institutional Framework. Outlooks Stable. Retrieved from: <https://www.spglobal.com/ratings/en/research/articles/240403-most-non-major-australian-banks-upgraded-on-strengthened-institutional-framework-outlooks-stable-13059460> (account required). For example, NAB and BNZ are both rated as AA-, but BNZ's stand-alone credit profile is A-.

¹⁰³ Draft Report [C64].

¹⁰⁴ See Table 7 and Footnote 25 of: (17 January 2023). Guidelines for WACC determinations under the cost of capital input methodologies. Retrieved from: https://comcom.govt.nz/_data/assets/pdf_file/0021/255504/Guidelines-for-WACC-determinations-under-the-cost-of-capital-input-methodologies-17-January-2023.pdf

¹⁰⁵ Draft Report [9.16].

¹⁰⁶ DAE Report [117].

¹⁰⁷ DAE Report [118].

- 3.17 We maintain that making comparisons between jurisdictions is very difficult and can be misleading. That said, if the Commission seeks to do so, then the Final Report needs to be updated to correctly account for the factors outlined above.

(3 C) There is ongoing innovation and investment, including in core systems, and BNZ's systems enable connections with Fintechs

(3 C 1) There is ongoing innovation and investment in core banking systems in the sector

- 3.18 BNZ considers that the New Zealand banking sector is highly innovative, with a number of different investments and innovations – both in relation to customer experience and to BNZ's "core" systems.¹⁰⁸ BNZ has continued to increase the extent of its investment into the New Zealand banking sector over the last four years. With the completion of the significant "BS11" project,¹⁰⁹ BNZ's focus is on implementing innovative technology solutions to support better customer outcomes.

- 3.19 In relation to its "core" systems, BNZ has made, and is currently making, a number of significant investments in relation to those services – demonstrating that competition is incentivising BNZ to innovate and invest:

(a) []

(b) []

(3 C 2) Investment in core banking systems has not been a constraint on Fintechs

- 3.20 The suggestion that "[a]geing core banking systems"¹¹⁰ may have delayed / affected "fintechs and other third-party providers seeking to connect into the banks" is not correct:¹¹¹

(a) Fintechs do not connect into a bank's core banking system, rather they connect to the bank's data (in a "data warehouse") via APIs; and

(b) BNZ has, for example, been able to successfully lead the market in the development of APIs and enable partnering with Fintechs [].

(3 C 3) BNZ is an active and motivated provider of banking services to Fintechs

- 3.21 The Draft Report suggested that banks can restrict Fintechs' ability to compete with them by limiting their access to business bank accounts.¹¹² This is identified as a potential challenge to Fintechs entering or expanding in the New Zealand personal banking sector. While BNZ

¹⁰⁸ (7 September 2023). Bank of New Zealand's submission on the Commerce Commission's preliminary issues paper regarding the market study into personal banking services at [Figure 25].

¹⁰⁹ RBNZ Banking Standard 11 ("**BS11**") has required banks whose net liabilities exceed \$10 billion (namely, ANZ, ASB, BNZ, Kiwibank, and Westpac) to have the legal and practical ability to control and execute outsourced functions. It has been reported that across the four larger Australian-owned banks, BS11 compliance cost "more than \$1 billion". ANZ described it as the "single largest regulatory project in the history of the broader ANZ Group". See: (14 November 2023). After years of work involving thousands of staff & hundreds of millions of dollars, the big four banks say they've met the RBNZ's new outsourcing requirements. Interest.co.nz. Retrieved from: <https://www.interest.co.nz/banking/125152/after-years-work-involving-thousands-staff-hundreds-millions-dollars-big-four-banks>

¹¹⁰ Draft Report [9.19].

¹¹¹ Draft Report [9.20].

¹¹² Draft Report [9.41].

cannot comment on the approach of other banks, for its part, BNZ is an active and motivated provider of banking services to Fintechs. Demonstrating this, BNZ is focused on attracting the banking business of technology customers and has been actively marketing itself as a bank that wants to attract the banking business of Fintech and Paytech businesses having recently appointed a “Head of Fintech Business” and a “Head of Paytech & Emerging Payments” to support the sector across all segments of business banking.¹¹³

- 3.22 BNZ now estimates that it banks more than [] customers that it classifies as Fintech or Paytech businesses.¹¹⁴ That includes having been an early provider of funding to [], [],¹¹⁵ being the banking provider to [], [], and [],¹¹⁶ and being an equity investor in, and distributor of, cloud-based farm accounting software provider Figured.¹¹⁷

(3 C 4) BNZ already offers offset accounts for home loan products

- 3.23 Another factor that the Draft Report points to as indicating a lack of innovation in the New Zealand personal banking sector is that "offset accounts for home loan products, have not fully flowed through to New Zealand".¹¹⁸ BNZ was surprised by this statement given it already offers an offset home loan account, and has done so since 2007¹¹⁹ – namely BNZ's TotalMoney offering.¹²⁰ Since that time, a number of other New Zealand banks have also begun offering such offset home loan products, including Westpac¹²¹ and Kiwibank.¹²² Rather than pointing to offset accounts as indicating a lack of innovation in New Zealand, the Final Report should reflect that this product is already widely offered in New Zealand (and has been for a long time).

¹¹³ (22 September 2023). Stacking up: BNZ steps up support for the FinTech and PayTech sectors. Head of Technology Industry. BNZ. Retrieved from: <https://blog.bnz.co.nz/2023/09/stacking-up-bnz-steps-up-support-for-the-fintech-and-paytech-sectors>

¹¹⁴ The extent of BNZ's relationships with a number of Fintech and Paytech businesses also demonstrates that it has not found any AML / CFT challenges to be insurmountable in providing banking services to Fintechs / Paytechs (cross-refer, 10.29 Draft Report). Nevertheless, BNZ supports exploring ways to reduce any actual or perceived AML / CFT impediments to Fintechs obtaining bank accounts, provided that any such review focuses on ensuring that New Zealand's AML / CFT regime continues to meet international standards and applies a risk-based and outcomes focused approach in preventing money laundering and terrorism financing (rather than simply enabling Fintechs at the risk of increased money laundering or terrorism financing). As has been the case with AUSTRAC (the Australian AML / CFT regulator) greater clarity could be provided to banks on the AML / CFT requirements in providing banking services to Fintech and Paytech businesses, including the extent to which banks can rely upon CDD conducted by a Fintech or Paytech business in relation to their customers. See: (23 January 2024). Financial services for customers that financial institutions assess to be higher risk. AUSTRAC. Retrieved from: <https://www.austrac.gov.au/business/core-guidance/financial-services-customers-financial-institutions-assess-be-higher-risk>

¹¹⁵ []

¹¹⁶ []

¹¹⁷ (11 February 2016). BNZ invests in Figured– farm accounting software. BNZ. Retrieved from: <https://blog.bnz.co.nz/2016/02/bnz-invests-in-figured-farm-accounting-software>

¹¹⁸ Draft Report [9.8].

¹¹⁹ (20 March 2007). BNZ launches banking first. BNZ. Retrieved from: <https://www.scoop.co.nz/stories/BU0703/S00348/bnz-launches-banking-first.htm>

¹²⁰ Offset your mortgage with TotalMoney. BNZ. Retrieved from: <https://www.bnz.co.nz/personal-banking/home-loans/home-loan-types/totalmoney>

¹²¹ Choices floating with offset. Westpac. Retrieved from: <https://www.westpac.co.nz/home-loans-mortgages/options/choices-offset-floating/>

¹²² Offset home loan. Kiwibank. Retrieved from: <https://www.kiwibank.co.nz/personal-banking/home-loans/loan-options/offset-mortgages/>

Part [4]: Concluding comments

- 4.1 BNZ hopes that this submission has assisted the Commission in understanding BNZ's perspective on the Draft Report.
- 4.2 We look forward to continuing to engage with the Commission as it works towards its Final Report, including through the Conference process, and we welcome the Commission to contact us if it wants to discuss any of the points in this Submission with us.

Appendix 1: BNZ's response to the Draft Report: Cross-reference table

Commission's draft recommendations	Key sections of BNZ's response
<p>1. The Reserve Bank should review its prudential capital settings to ensure they are competitively neutral and smaller players are better able to compete</p>	<p>Part 2 A 2 [2.6]: New Zealand's regulatory standards must meet international standards to ensure access to funding and good outcomes for New Zealand consumers</p> <p>Part 2 A 3 [2.7]: Capital requirements have already been changed and will be competitively neutral by 2028</p>
<p>2. Kiwibank's owner should consider what is necessary to make it a disruptive competitor, including how to provide it with access to more capital</p>	<p>Part 3 A 1 [3.3- 3.7] and DAE report: The Draft Report understates the extent of competition, including from Kiwibank</p>
<p>3. The Government should set clear deadlines and work with industry to ensure open banking is fully operational by June 2026</p>	<p>Part 2 B [2.11-2.12]: BNZ Supports Open Customer Data done the right way, and is leading the market</p>
<p>4. The Government should reduce the barriers imposed by the AML/CFT regime on banks working with fintechs</p>	<p>Part 3 C 2 [3.20]: Investment in core banking systems has not been a constraint on Fintechs</p> <p>Part 3 C 3 [3.21 – 3.22]: BNZ is an active and motivated provider of banking services to Fintechs</p>
<p>5. The Reserve Bank should use its new decision-making framework under the DT Act to explicitly and transparently consider competitive effects</p>	<p>Part 2 A 1 [2.3– 2.5]: There is an inherent tension between promoting competition and a stable and secure banking system for the benefit of New Zealand consumers</p> <p>Part 2 A 3 [(a)]: Capital requirements have already been changed and will be competitively neutral by 2028: The RBNZ already recognises the role of competition</p>
<p>6. The Reserve Bank should explicitly and transparently articulate how it is applying the purposes and principles of the DT Act to its Deposit Compensation Scheme levy advice</p>	<p>Part 2 A 4 [2.8 - 2.10]: Other regulations are being simplified, but all regulations must continue to apply a risk-based approach to keep New Zealand consumers safe</p>
<p>7. The Reserve Bank should consider broadening access to ESAS accounts</p>	<p>BNZ has no further submission</p>

Commission's draft recommendations	Key sections of BNZ's response
<p>8. The Government should amend the DT Act to allow the Reserve Bank to promote competition, rather than maintain competition</p>	<p>Part 2 A 1 [2.3– 2.5]: There is an inherent tension between promoting competition and a stable and secure banking system for the benefit of New Zealand consumers</p> <p>Part 2 A 3 [2.7]: Capital requirements have already been changed and will be competitively neutral by 2028</p> <p>Part 2 A 4 [2.8 - 2.10]: Other regulations are being simplified, but all regulations must continue to apply a risk-based approach to keep New Zealand consumers safe</p>
<p>9. The Government and policy makers should seek competitive neutrality across banks and other providers in their decision-making wherever possible</p>	<p>Part 2 A [2.1 – 2.23]: BNZ supports competitive neutrality in the regulatory frameworks where possible but the Commission's regulatory recommendations need careful consideration</p>
<p>10. The CCCF Act should be competitively neutral with respect to home loan refinancing to make it easier for consumers to switch providers</p>	<p>Part 2 A 4 [2.8 - 2.10]: Other regulations are being simplified, but all regulations must continue to apply a risk-based approach to keep New Zealand consumers safe</p>
<p>11. Industry should create an enhanced switching service with appropriate Government oversight</p>	<p>Part 2 H [2.222.22 – 2.232.23]: BNZ supports promoting the Payments NZ switching service</p> <p>Part 3 A 4 [3.13 – 3.14]: The Draft Report does not fully reflect the importance of customer satisfaction and multi-homing as reasons for switching rates</p>
<p>12. Home loan providers should present offers in a readily comparable manner</p>	<p>Part 2 E [2.18– 2.19]: BNZ supports providing clear information to consumers in relation to the costs of home loans</p>
<p>13. Mortgage lenders should pro-rate all clawbacks for broker commissions and cash incentives</p>	<p>Part 2 F [2.20]: BNZ supports the pro-rating of clawbacks of home loan cash contributions from customers (and that is consistent with its current practice)</p>
<p>14. The Financial Markets Authority should produce guidance and monitor mortgage advisers' compliance with their duties under the Financial Markets Conduct Act</p>	<p>BNZ has no further submission</p>
<p>15. Industry and Government should prioritise work to reduce the barriers to lending on Māori freehold land</p>	<p>Part 2 D [2.17]: BNZ supports prioritising work to reduce barriers to lending on Māori freehold land</p>

Commission's draft recommendations	Key sections of BNZ's response
16. Industry and Government should prioritise ensuring widespread availability of basic bank accounts	Part 2 C [2.13 – 2.16]: BNZ supports access to basic bank accounts and already offers one

BNZ's response to other Draft Report findings	
Whether there is a stable oligopoly	Part 3 A 2 [3.8 – 3.9] and DAE report: The economic evidence is not consistent with a finding that there is a stable oligopoly or coordination in the sector
The competitive position of Kiwibank	Part 3 A 1 [3.3- 3.7] and DAE report: The Draft Report understates the extent of competition, including from Kiwibank
The role of other smaller providers on competition	Part 3 A 3 [3.10 – 3.12] and DAE report: The Draft Report understates the role of other smaller providers
The reasons for observed customer switching rates	Part 3 A 4 [3.13 – 3.14]: The Draft Report does not fully reflect the importance of customer satisfaction and multi-homing as reasons for switching rates
Whether banks (or their technology) impede the provision of banking services to Fintechs	Part 3 C 2 [3.20]: Investment in core banking systems has not been a constraint on Fintechs Part 3 C 3 [3.21 – 3.22]: BNZ is an active and motivated provider of banking services to Fintechs
Whether there are excess returns / profits in NZ personal banking	Part 3 B [3.15 – 3.17] and DAE report: The Draft Report does not evidence excess returns or profits
Whether there has been a lack of innovation and investment in core banking systems	Part 3 C 1 [3.18 – 3.19]: There is ongoing innovation and investment in core banking systems in the sector
Whether there has been a lack of innovation on home loan products	Part 3 C 4 [3.23]: BNZ already offers offset accounts for home loan products