DAY 3 – PERSONAL BANKING SERVICES MARKET STUDY CONFERENCE

SESSION 8 – MORTGAGE ADVISERS

15 MAY 2024

Adjournment from 10.36 am to 11.04 am

TRISTAN GILBERTSON: Mōrena tātou, welcome back everyone to this session on mortgage advisors. In this session we're going to be focusing on how the mortgage advisor sector can better promote competition in home lending. You'll remember that in the Draft Report we expressed a number of concerns about the sector and got a very rapid response. We've since engaged extensively with a wide range of participants in the sector. We're extremely grateful for the time and effort everyone's put into working with us to develop our understanding of the sector, how it's changed in recent years and how it currently operates. It's been incredibly useful, so thank you very much for the time and effort that you've put into that.

As a result of that engagement, our original thinking has shifted and some of our original concerns have fallen away, but we can still see scope for changes in a number of areas that could improve outcomes for competition and consumers, and it's that that we want to focus on in this session with you this morning.

So we've framed up three topics we'd like to take forward. The first is lender accreditation practises and mortgage advisor panels. And the starting point for this topic is the proposition that the size of mortgage advisor panels matters for competition.

What we are seeing is that most advisors have, or at least want to have, broad panels to meet their clients' needs and expectations, and that's consistent with what we'd expect to see in a competitive market. Comparison and choice are at the heart of what advisors do, and so we'd expect advisors to be differentiating themselves on the size of their panels and their ability to connect consumers to a wide range of different offers.

At the same time, though, we're also seeing that accreditation with Kiwibank in particular seems to be difficult to get, acting as something of a hand-brake on that dynamic of expansion. And we've also observed that some mortgage advisors by design have limited the size of their panels to sometimes as few as one or two lenders.

So for us that raises a couple of concerns that we want to explore in this topic. Firstly, consumers may not fully understand the limitations of using a service with a limited panel, and related to that, it's difficult to see how an advisor can act in their client's best interests if they only consider services from just one or two providers.

So to kick things off, we'd like to discuss an idea raised by Sarah Curtis of Sarah Curtis Mortgages & Insurance in submissions relating to the concept of negative disclosure. That's the idea that advisors should proactively disclose who they don't work for before committing to a relationship and advice with a client.

Sarah, thank you for your suggestion. We'd like to start by asking if you could elaborate on why you think advisors should disclose who they don't work with. I think Sarah's online. Hi Sarah.

SARAH CURTIS: Hi everyone. I'm unmuted now, thank you. Firstly, I'd just really like to acknowledge the Commerce Commission for the time that they have taken in acknowledging, I guess, the mistakes that were potentially in the Draft Report and the time that's been put into an engagement with advisors since that.

One of the points that I raised in my submission was around the negative disclosure. So I believe that as a consumer it should be pretty clear to you when you're looking at an advisor's disclosure document, or on an advisor's website who the particular providers are that advisors cannot access. Currently if you were to look at any of our disclosure documents, it would be addressed in the form of the providers that we are able to work with. But there is no explicit mention, or order that those providers need to be laid out in so that it would be easy for a consumer to understand who a provider, or if an advisor wasn't able to work with a particular provider or multiple providers.

TRISTAN GILBERTSON: Sarah, I think in Australia, ASIC would certainly agree with you on the question of negative disclosure, and we're interested in hearing views from other advisors as well. But I want to expand the idea slightly following the ASIC requirements in Australia. In Australia, ASIC essentially expects brokers, as they are still called over there, to do three related things. First, disclose who's not on their panel, which is the idea that we've started with you; second, make sure that those who are on the panel are sufficiently representative of lenders in the market; and then third, only provide advice if the panel enables them to act in a client's best interests. So that begins with your idea of a negative disclosure but then transforms that into something more positive on advisors in terms of advice.

And to satisfy themselves that their panel is sufficient, or sufficiently representative, brokers in Australia are expected to have an awareness of products and features that are available in the wider market, so not just on their particular panel. ASIC sees that as an essential element of providing advice, acting in the client's best interests.

So I guess the question is, do you see that ASIC requirement as a natural extension of your concept, how comfortable are you and how comfortable are other providers, other mortgage advisors in New Zealand, with the idea of moving to that, aligning ourselves with that Australian position?

SARAH CURTIS: I can only obviously speak to my business and my experience within that, but it would be something that we would be completely comfortable with. There are providers such as New Zealand Home Loans that is not -- they have a range of products that we can't access, but I know them inside out so that I'm able to discuss that with clients. So when we're looking at comparisons that's something that's available.

I think if it's going to get into the advisor side of things it also needs to look at an alignment with the banking side of things, to ensure that if someone's going into a particular bank and being given advice by that particular bank, then maybe they are also having it made very clear to them that there are other providers that can help them with multiple products as well.

TRISTAN GILBERTSON: Okay, thanks Sarah. Are there any other advisors online or in the room who would like to contribute?

LEIGH HODGETTS: Hi, my name's Leigh Hodgetts, I'm the Country Manager for Finance and Mortgage Advisor Association. Sarah's one of our members and we've met with a group of our members discussing this at length. My concern about the ASIC regime, and I've worked in Australia around a heavily regulated regime for many years prior to moving to New Zealand about 13 years ago; we are a very principle-based regime in New Zealand and they are very prescribed and over-prescriptive with some of the ASIC regulations and make giving advice to consumers in Australia very difficult.

I would hate us to go down that road here, because it's not essentially broken. I think you're trying to fix something that I don't see as being broken at all. We've moved ahead with how we do business and how we look after the consumers through disclosure, through bringing licensing in and the regime that we've embraced and moved ahead with, along with the FMA consultations and meetings over the last through years.

So I think we'd have to tread very carefully to replicate what happens in Australia with ASIC. I think we are further ahead there and I think we could do better by self-regulating a little bit further based on what we are doing now in New Zealand.

TRISTAN GILBERTSON: So if the idea is some sort of middle way forward, what do the contours of that look like in terms of obligations attaching to advisors?

LEIGH HODGETTS: Hamish, did you want to talk?

HAMISH PATEL: I thought a simpler way might be to, you know, disclose who you -- like, I do see some merit in not saying that we deal with X bank when you haven't put a deal into X bank for two years, so I can see some merit in that kind of angle.

But I think we do have to be aware that there is some innovation and actual product offerings that the consumers actually would like from advice firms that only have got one lender. And NZ Home Loans is a really great example of basically a firm that was a pioneer in its field at the time for helping clients to save a lot of interest on their home loan without focusing on the interest rate, but actually managing their debt better by using their software. They started in 1996 and they had, you know, their value proposition was very simple, they didn't hold themselves ought to be a broker of multiple lenders; but they were there to help you save your money, they had kind of a pioneering software at the time.

But the commission model we had with trail, I believe, is possibly the reason why they stuck with one lender and I believe it was Sovereign to begin with. This is just from my own observation, I've never worked in NZ Home Loans, but I believe the other reason could have been the kind of information which was being shared with Sovereign and the advisor community, which even now we have a little bit more visibility on the client's balances and things when we deal with Sovereign.

But either way, NZ Home Loans had massive growth out of taking this approach where they had a set remuneration that they were happy with and a set way of dealing with that one lender that they became comfortable with. Later on, as we know, the story, they added Kiwibank. Kiwibank I believe brought them out later on and probably the 2000s. But, you know, a huge success story and that started off with, really, one lender as a kind of broker commission model.

TRISTAN GILBERTSON: Hamish, is your concern that they would not have been able to do that, or it would have been more difficult for them to do that if they'd been subject to an ASIC-type obligation?

HAMISH PATEL: It might have increased their costs for delivering that. I understand right now they have a branch network, a lot of support services for managing clients where they are with their home loans and their budgeting as well. So there's other things they put on the table that most advisors don't. But, yes, it would definitely have added to their costs and it would have -- yeah.

TRISTAN GILBERTSON: Okay. It would be interesting to understand whether consumers using that particular service were sufficiently aware that they might not have been getting the cross-section --

HAMISH PATEL: I think I remember, and this is just from losing clients to NZ Home Loans and gaining some from NZ Home Loans; they never held themselves out to be a mortgage advisor as such, it was dealing with multiple banks. It was always NZ Home Loans and a lender in the background almost like a white label, like almost like a tiered agency of a provider.

TRISTAN GILBERTSON: Thanks Hamish. Patricia.

PATRICIA MARSDEN: Yes, thanks for the opportunity to speak. I agree with the speaker who spoke before Hamish in regards to that any action that we implement is going to cause a reaction. If we state who -- I don't understand why we would need to disclose who we do not deal with if we have disclosed who we do deal with. And on our disclosure statement we do have to write out a list of who is on our panel, who we are accredited, ie can access.

If there was a specific reason for making a recommendation for a provider that we could not be dealing with, so if somebody did not have Kiwibank on their panel and Kiwibank was the client's existing bank, then it would be logical to say, "Well, your option is I can put you with this provider that offers this, but Kiwibank also has this product but I cannot deal with them, as you can see they are not on our panel." I just think that that is quite cumbersome to say who is not and where do you stop. There's like, you know, 40 different lenders in New Zealand and are we going to list off all the ones that we don't actually deal with? So I think surely it would be a more efficient way to tie up the client's objectives with our disclosure statement in our final letter of recommendation.

TRISTAN GILBERTSON: Okay, thanks Patricia. Andrew.

ANDREW PERRY: Andrew from Mortgage Market. Good morning. I just want to echo what Patricia's saying. If I look at the RBNZ, there's 27 registered banks there, there's another 15 non-bank deposit takers. Most of those are not lenders that we would work with in the non-bank space. The biggest non-bank lenders aren't actually listed on there.

So if we're looking at disclosing to customers that we're not working with, I mean I might have 20 lenders on panel and another 30 that I don't have access to. That's really just going to overwhelm people with information. I don't think it's going to be very helpful to consumers to understand, and it's just going to increase the amount of regulation and disclosure.

We've already gone through a process with this when the new financial advice regime came in in 2021. This was considered by the FMA at that time. It's something which I think they rejected just because it does tend to overwhelm people with information. They're really not wanting to understand sort of who the other 30 lenders are that they don't have access to. They're coming to someone for a solution, whether there's a white label solution, like NZHL offers, or whether it's someone like myself who might have access to 20 lenders and working in different parts of the market who offer different solutions, like development finance, it's not necessarily a retail home loan. I don't really think disclosure of the other 30, 40 lenders, who may not have those sorts of channels, is going to be very helpful to consumers.

TRISTAN GILBERTSON: Andrew, what you've just described in terms of your own business takes you to the very heart of the ASIC proposition, though doesn't it, which is that the providers panel should be broad and sufficiently representative of the wider market, so that any consumer coming to an advisor can be confident that the advice that they will get will be in their best interests because it is representative of the market. So it sounds like you are there.

The ASIC obligation begins with the concept of negative disclosure, and I think we hear what you say about how that could potentially be cumbersome. But the key point of it is a proactive obligation on providers to ensure that the advice they provide is representative for any consumer coming through the front door.

ANDREW PERRY: Any consumer coming through the front door? I wouldn't really agree with that. Most of the business that I do is through those big main banks, the big four banks as well as the New Zealand banks. Whereas we have other advisors in the industry, I see Jeff Royle's online; he does a lot of non-bank lending with customers who might have quite a different proposition. So I can tell if someone's in that particular space that I may not be the best person to speak with, it may be best to refer them to someone else in a different part of the industry.

On the other hand, I also do a lot of development finance. That's something which I've got particular expertise in. Or I may be better suited to work with that particular consumer than other brokers, or other business models such as NZHL.

JOHN SMALL: Can I just ask a slightly different question, and it's just about the positive disclosure that's there currently. As Hamish mentioned earlier that, you know, if you hadn't placed any business with a lender for a couple of years, you know, maybe you shouldn't hold yourself out as placing business with that lender. What is current practice in regards to that at the moment?

ANDREW PERRY: We're under the new financial advice regime which has been in place for a couple of years now. As part of that there's a stage two disclosure, nature and scope disclosure which comes to customers when they're looking to engage with us. So we'd send that out to every customer as part of our process. And that will disclose things like which lenders are on the panel, what commissions look like, third party dispute resolution, disclosures of that nature. So that's all part of the process which the FMA implemented as part of the new regime.

JOHN SMALL: Yes, I think I'm aware of that. I guess my question is, if you hadn't placed any business with a lender for a couple of years, would you still be able to put their name on that list, that disclosure?

ANDREW PERRY: Yes. There's nothing on my disclosure which details what the volumes look like with each lender. Yeah, I guess, I mean that may be relevant, I suppose.

JOHN SMALL: Thank you.

LEIGH HODGETTS: I can talk to that a little bit further. So the aggregators that hold the commercial agreements between -- the aggregator groups of the large financial providers hold agreements with the banks, and then the contracts from the aggregator down to the mortgage advisors, who we've got a good representation online; they're acting on what the aggregator groups have arrangements with. So you might be in a group that has a very large panel of lenders that you can recommend to your customer, or you may be in a group that has a different panel.

But most people and most aggregators will have, and I've set a few of these up recently for the new licensing regime; at least all the four main bank lenders, Kiwibank if you can get it, and as many of the small non-bank lenders as possible that's going to meet the needs of the consumers, because they are very diverse, the people that mortgage advisors look after day in and day out.

So regardless of whether you've placed business with a particular lender, you're still required to keep up your competence knowledge and skill, it's a requirement under the code of conduct for financial advisors. Which means you need to do ongoing training, and that includes specific product training to do with, say, mortgages and also the product providers that you are accredited to recommend their products on behalf of.

So even if Westpac hasn't been the best product for clients in recent months, it may be that you can definitely still recommend them if they come up to be the best solution for the customer at the end of the day, as long as you keep your accreditation current and you keep your training up-to-date, and you can demonstrate competence, knowledge and skill for the panel that you're able to advise on.

TRISTAN GILBERTSON: Thank you. I'm just conscious of time. Kiwibank, why haven't you thrown more resources at this channel given the opportunity that presents to grow market share?

MIKE HENDRIKSEN: Mike Hendriksen, Kiwibank. Not much of a leading question. I think the point is Kiwibank started from quite a way back. You know, when I joined almost six years ago we had a very small footprint in the advisor community and so we've been, to a certain extent, running to get to the same starting line. I think if you look at our numbers in terms of flow through advisors, we are now on par with any of the other four banks.

And in terms of the number of advisors we are bringing on board, in the last 12 months we've brought on board 479 advisors; so there's not a complacency, or a lack of interest in Kiwibank. We see the advisor channel, and, you know, it's publicly discussed at our half year and full year results, that we see the advisor channel being an important partnership for a bank like Kiwibank. So I think if there are concerns now, it's because it's the ingestion of the number of advisors at the moment rather than a lack of willingness, if that helps.

The other thing I might do is just clarify the NZHL point, because they're a sister company of ours, we don't own them. And to Hamish's point there, I don't think they put themselves out as brokers, they put themselves out as a product provider for a particular type of financial solution for mortgages. So I don't want to speak on their behalf obviously, but I just thought that's the sort of factual matrix that they operate in.

TRISTAN GILBERTSON: Okay, thank you. It sounds like that particular issue with Kiwibank may be a point in time thing and be in the process of resolving itself. Thank you for that clarification.

I want to move on now to the next topic about interest rates, the role of interest rates in competition through channels. And our starting position here is the proposition that interest rates matter for competition. Consumers have certainly told us in this process that interest rates are one of the most important drivers for switching home loans, particularly in the current economic climate and given the increase in rates we've seen over the past couple of years.

So we were surprised that rates aren't a focal point of competition through the channel, that they're described by advisors themselves as a secondary consideration.

Advisors seem to focus on matching the client with the right lender and issues of structuring, which all makes good sense, they're very important factors. But it's the lack of focus on price, or interest rates in this case, that strikes us as unusual for a service that's all about facilitating comparison, choice and switching.

We understand that in Australia over the past couple of years rates have been a focal point in the advisor channel in a way that we're just not seeing here. There seem to be a couple of issues, one sitting with the banks and one sitting with advisor practises.

In terms of the banks, there seems to be issues with the way the banks work with advisors, including prioritising their own in-house channel applications over the advisor channel and limiting investment into the channel as well. And then on the advisor side there seem to be issues of current practice and approach that are limiting the effectiveness of the channel in terms of driving rate-based competition.

So we're just keen to explore both of those things, starting with advisors first, and using Australia as the counterpoint. So ASIC in Australia expects loans to be prioritised, that's the language of the obligation, prioritised by brokers because that is what consumers want. ASIC also expects advisors to consider interest rate competition even outside their own panels in making recommendations. ASIC sees that as necessary to acting in the consumer's best interests.

So the question we have for advisors off the back of all of that, is should we consider a similar requirement here to get more traction and focus on price competition through the channel?

PATRICIA MARSDEN: I'd really like to address that issue because that's an issue I'm quite familiar with. Is that okay?

TRISTAN GILBERTSON: Sure. Thanks Patricia.

PATRICIA MARSDEN: So in my experience, I've been doing this job for 26 years, that many people will say that it is the interest rate that is of the highest priority when they first come in, because it is one of the few things that they can quantify that they'll be focused on. It's also the major thing that lenders, banks in particular, will market themselves on a certain particular special. Those specials may not be suitable for the client. For example, if you've got a, you know, like a great five year rate, well that might look well attractive compared to other rates, but actually, a short-term rate may be more preferable for the client.

In my experience, when you quantify the pricing and compare them between lenders, and this will take into account fees, cash contributions and interest rates over the period of time that a client fixes their loan for, generally most mainstream banks will come out equal. It might be a few dollars, but once you've quantified that, you've shown that to the clients, then you're almost taking the pricing out of the equation. And it's not based on advertised rates, it's based on the rates that the advisor has negotiated for their client.

HAMISH PATEL: Can I also just make a point as well. The thing here is we've got to be careful not to reduce all of us advisors into one scope of being price and product comparison experts, because some of us don't hold ourselves out in the market to be that.

A lot of us are dealing with right now the appetite of the banks, macro prudential rules, which is now going to include DTI, LVR and also the spirit of things like the CCCFA. And while we're doing that, there is also a timing issue; my re-fix is coming up in a month, two weeks. Now we have to quickly make a decision and work out where is this thing going to work best? Sometimes it's a finance date which only gives you ten days. So to pre-empt that, we are unable to lock pricing before we start putting in deals with each lender. So that poses a challenge.

But the key thing here is also, I just want to highlight, is that we are in competition with each other. So the free market drives us to act -- if the client's priority is interest rates, then we have to be acting for that, because the client can still walk. Up until settlement day and sometimes even after settlement day the clients can walk and affect our income, and a lot of us do not charge anything for that service, so it keeps us honest. Yeah, I just wanted to add that. We’re a lot of small businesses competing with each other, so we can’t just pull a fast one on a client if their priority is to get the best interest rate.

JOHN SMALL: Thanks, I take your point, but there’s a knowledge gap, isn’t there, as between yourselves and somebody looking for a loan. That’s kind of, you know, what your business is; you’re supplying specialist information to people to save them the trouble of shopping around directly. I mean we have heard, it seems like a sort of stylised fact, but please tell us if it’s not right; it seems like a stylised fact that mortgage advisors tend to focus on finding a product that they think fits the consumer’s needs and helping them with things like paying down debt early and total cost of borrowing and those sorts of things, rather than interest rate competition. And I wonder whether that’s partly because - so is that a fair characterisation? You seem to be saying, Hamish, that -

HAMISH PATEL: I think it does depend on the client. Some brokers are very rate focused, especially I’ve noticed as advisors definitely when they come out of - a lot of us are ex-bankers, and definitely when it’s more of a transaction you’re very focused on competition and the pricing as the main value proposition. Some of us who then kind of, you know, cut our own cloth over the long-term find a niche, and some of us could be specialists in investment property loans, some of us are, like Andrew, development. But, yeah, so -

SARAH CURTIS: Can I just add on to that? Sorry, Hamish, to cut you off. I think what we don’t take into account is, we know as advisors what the market rates are. Before we go to prepare this loan to go to the bank, we pretty much know what the rates are that are on offer at that bank. We also pretty much know at the moment that the banks will match each other on rates. So they are seeing what is out there in the market. If somebody’s got a market leading two year rate, it doesn’t normally take 24 hours for the other banks to be matching that market rate. They realise that consumers want choice and that they have the ability to make that choice to move. So it’s not like, like I say, if one bank came out with one cracker rate, its very quickly met by the market.

ANNE CALLINAN: Thanks Sarah, it’s Anne here. Do you as advisors, as a general rule, have any ability to influence the rates that you’re offered by banks, or do you consider yourselves largely to be price takers for your clients?

SARAH CURTIS: We have the ability to say to the bank if you want the business for this client, this is the kind of structure that we’re looking at. But we can’t come out and say we want 4% at the moment, they’re not going to fight for that business. It’s much more that they will match what other banks have at the time. One of the banks might come out with a cracker offer, and we used to see it a lot before Covid times where there’d be the offers of we’ll fly you to Rarotonga and we’ll get these market leading offers. But it really fizzled out post CCCFA, Covid, everything kind of got very --

HAMISH PATEL: We're very open to -- I know in our business we will switch the lender right up until sometimes a week before settlement day to make sure that we get a better rate if there's another better rate on our panel, because we're also very paranoid about losing clients. So you will learn this in the first year when you don't do right by the client that they will walk and you would have spent your 30, 40 hours for nothing. So, you know, yeah, so --

SARAH CURTIS: Policy drives where the clients need to be, the policy drives where the clients should be and the policy and the products that those products are offered by the bank, and the interest rates very much just sit within the market.

HAMISH PATEL: And I think with the CCCFA and some of the changes that have happened in the last two or three years, it has felt like trying to get a client approved can take a month or something. Only Kiwibank gives us some ability to hold some pricing without an approval. Other lenders, you know, it's very difficult to kind of do that. So you pre-empt and you try and get maybe two approvals if you think it's going to be price sensitive and you go with the cheapest on the day, but it can change over that period.

TRISTAN GILBERTSON: That's interesting about holding rates, Hamish; and hear what you say about matching. But at the end of the day in terms of consumer outcomes, it's all relative to the selling point, isn't it. And so the key words in your description were "the lowest rate on our panel". What if the lowest rates sits elsewhere in the market? This goes back to what we were talking about earlier in the ASIC obligation. Do you go outside your panel, do you point to the wider market sometimes to try and leverage that ratcheting down to maximise the consumer's interest?

HAMISH PATEL: Yeah, if we're aware of a cheaper rate in the market, we will push that with the lenders on our panel. Of course, look, ultimately we're in a business, right, we're all small businesses. So we still must -- we have to ensure that we also survive as an industry. So am I going to go and say "hey look, there's this other small lender, they're offering an amazing rate, I think you should go there." Look, I don't make a habit of it, right?

SARAH CURTIS: I think we have a very broad panel. I think, like, we don't have this competition that we have in Australia, we don't have hundreds of lenders that we have access to. We basically have five big banks and a bracket below that where people fit into the non-bank lending setting. There's not going to be anyone in that non-bank lending generally, as a general rule, that comes out with a market leading rate to try and get business. There might be the smaller providers like the SBSs and the TSBs that we can still access to but we wouldn't necessarily go to as a priority. And that could be something, again, where the client comes to us and says "I see that TSB's got a $3,000 cash contribution that they're offering."

So, yeah, we can get that from most of the other big banks. Lots of those conversations that we have start with price, they do start with price because people normally see something that triggers them to have a conversation with us. But it's not something that ends up being the deciding factor between going to one of the providers.

TRISTAN GILBERTSON: I see Paul and Jeff are online, but before we go there, Sam.

SAM STUBBS: If you don't mind, a couple of comments with regards to the sector. First of all is, it is interesting that the lowest cost first home loan in New Zealand has never been sold by a mortgage broker because no commission is paid on it and that is understandable. But as someone who's run teams of commission-based salespeople, I think the issue here is fundamentally one of power. This is a power relationship between the banks and the mortgage brokers, and they will be rewarded according to how much business they give the banks and likewise the banks will reward them back, and that power relationship changes over time.

The problem with that is, is that the bank, whose primary service is to their shareholders, they are not ultimately responsible for the customer, they often don't know who they are, so you can't hold them responsible for behaviours here. But the mortgage brokers clearly do and because the powerless party in that relationship is often the customer. So the brokers can say the customer can always walk away, but they are coming from the position of least information, they are seeking supposedly objective advice, they are being sold commissioned product.

And so I would suggest that in order to solve this issue, that we return to the issue of primary fiduciary responsibility, as you would have, say, in the United States, where there is a legal obligation to act in the interests of your customer. And the reality of the power relationship of the commissions, which a customer cannot possibly be expected to understand, is something that will go on regardless, that is in the nature of the industry, that won't go away. But a legal fiduciary responsibility to act in the customer's best interests not only makes sure that the mortgage broker will make aware the relationship that they have with a bank and the commissioned nature of that, but also what might otherwise be available to the market. And then that can be tested in law over time.

So we just have to understand the reality of the power relationship here, and if you're going to act in the best interests of a customer then create a fiduciary responsibility on behalf of the advisor who is called an advisor to that person. Thank you.

TRISTAN GILBERTSON: Thanks Sam. Just in the interests of time we best keep this moving and flip to the other side of the equation, which is the role of the banks in shaping outcomes in this channel. And we've observed that in Australia it seems to be much simpler for advisors to submit applications with multiple banks through online portals. So there's been quite significant investment by the banks into the channel in Australia in a way that we're just not seeing here. Advisors here seem to be typically locked into email communications and phone calls between themselves and the banks.

So the question we have is, why are the banks forcing mortgage advisors to communicate and arrange loans by email and phone? Why are we not seeing the same investment into interactive portals that have been so important in seeing the spur and the growth of competition through that channel that we've seen in Australia? Any takers for that one?

DAN HUGGINS: Happy to start, given I ran a large part of the Australian mortgage market for a long time. Australia has a LIXI standard on data, which means that actually there's a standardised format across which all of that data comes, which then enables those portals to work. And, as you suggested then, it means a head group with their software can then put that application to multiple different banks.

We don't have that standard here. So each of the banks are then operating with their own definition of those different fields as they come across and as a consequence they won't talk to each other. So to establish what you're talking about, you would need to establish those LIXI data standards and then have the infrastructure built around that.

ADAM BOYD: Adam Boyd, ASB. To me, an online portal is an example of how you may choose to try and make a process or experience better for a channel. To the broader question, you know, we absolutely are focused and investing on how do we make processes simpler. We do that in our proprietary channels, equally we do it in our advisor channels and are consistently seeking to try and make that better. It's a key way that we try and compete to win business. You know, if we can be making it quicker or more efficient for our advisors, then our theory and the feedback we get is that that is undoubtedly going to be that more business is coming our way. So we continue to invest into it. I think a portal is an idea. Equally we don't have that in our proprietary channel either.

So I think it's not like we've sort of got it in one channel and not in the other. But I think the key point is we continue to invest and try and make it easier for both our proprietary bankers, but also for our advisors.

LEIGH HODGETTS: So this is a topic that's been talked about for seven or eight years, as far as I can remember, working with mortgage advisors and other associations and with aggregator groups as well, how do we make it more efficient? It's the same data but it's collected differently. And the efficiencies that we're losing out in the email trail and in the era of technology and AI and all the smart things that are happening around the world, we are back in the 80s with our online processing and banking systems.

Mortgage advisors put a lot of time and effort into getting the best outcomes for their clients, or their customers, but the process slows everybody down considerably. And it's emails, it's chasing people on the phone, it's archaic. And we've had conversations around the table with a few people in the room from different banks here before in New Zealand where it's like can't we agree to a common application form to start with, and if you've you're collecting the same data, the same information, that's the starting point to making things more efficient and adapting this, and benefits for everybody, including the consumers which is what we're here talking about today. They don't need to know how terrible our processes are behind the scenes and how long things take and how many phone calls and e-mails people make. It's getting with the times and just getting ahead with our banking systems that will make a great outcome for everybody involved here.

TRISTAN GILBERTSON: If you've been running into this problem for seven or eight years, I think you've said, and there is a standardised approach to this in Australia that has unlocked that channel as a driver of particularly price-based competition, why, given the common ownership, have those standards not flowed through to this market? Tex.

TEX EDWARDS: My original comment was one for the Commerce Commission analysts who are doing the engine room work here. If we look at page 107 of the Draft Report and it discusses how much increase in mortgage broking there has been, I urge the analysts at the Commerce Commission in the Final Report to do an overlay of the increase in use of brokers and the lowering of the cost to income ratio. Because the cost to income ratio is what's at play here at 100,000 feet.

Because what we've got is the banks trying to, in a non-competitive situation, we've got what we call non-price competition issues here. And to answer Commissioner Gilbertson's observation, I put to the Commissioners that in fact, in fact what's happening here is we're trying to window dress our cost to income ratio because we can amortise the cost of the broker over the period of the loan rather than having to expense expensive branch networks.

And because there's no competition amongst the big four, that's why our industry colleague in the broking house isn't being serviced well. And we urge the Commission to really dig down into the mortgage broking industry, because they're the catalyst, they're the maverick sitting in the room that, with better organisation and better regulation, can bust open this market.

TRISTAN GILBERTSON: Turnaround times for anything feeding into the system is just as important as the effectiveness and the efficiency of the system itself, and to that extent I guess there's a follow-up question for the banks as well. We're hearing that applications inside the bank's own channels can be processed in as little as 24 hours, whereas it can take days for anything coming in through an advisor channel. So the question is, are you unduly preferring your own internal -- Catherine.

ANTONIA WATSON: No. I mean you just need to look at the numbers. We can't afford to not have a really strong partnership with our mortgage brokers. Simple as that.

The other thing, while I've got the microphone, the point that was made quite strongly on the video is that there's been a lot of focus on price competition. I think some really strong points were made that if there's a good price out there you'll be able to get it for your customer. But there are a lot of other ways we compete, and I haven't heard anyone talk about things like how much you can borrow. That's down to individual bank credit policies. That can actually be the game changer is well, this bank will allow me to borrow $50,000 more than that bank because they've treated an expense differently, or they have an appetite that's different on the day.

Turnaround times we've just talked about. That is a massive point of competition sometimes. If one bank is taking two weeks to turn something around and a customer's there going "well, I need to know now if I can buy this house" and another bank can turn it around in a day or two, that's a big strong point of competition.

And that, I think, goes to the heart of why some of the other participants were saying that price is a starting point, but it actually isn't the finishing point in a lot of cases.

JOHN SMALL: Sorry, Antonia, just to clarify your "no", that's no, you're saying the turnaround times are the same?

ANTONIA WATSON: There's nothing in our policy that would favour proprietary over --

JOHN SMALL: And the outcomes are consistent with that?

ANTONIA WATSON: No, absolutely not, it's not in our interests to not service the -- it doesn't mean that we always get it right and it doesn't mean that sometimes our turnaround times do blow-out, but there's nothing that's in our interests to say we want to focus on proprietary over broker.

JOHN SMALL: Thanks.

CATHERINE McGRATH: Catherine McGrath, Westpac. Brokers are more than half of our acquisition flow, and so it's in our vested interests to make sure that that channel is well serviced. Two, I can't think of any time where one channel has been prioritised over the other, so there's no strategic decisioning around that. And to your question about investment in acquisition channels; from my perspective it's been deprioritised behind some of the regulatory change that we've been doing over the last couple of years and I would love it to come further up the list.

ADAM BOYD: Adam Boyd, ASB. I guess similar response. So there is no policy that would see us prioritise one channel over another. I think fundamentally we see a lot of -- we think about -- it's an important channel to us customers, different things matter to different customers. So a number of our customers will be coming in through the advisor channel.

Again, we would be crazy to be sort of, like, not serving our customers that are interacting through that channel. So I think it's such a substantial channel for us as well that it just wouldn't be in our best interests to be doing that.

TRISTAN GILBERTSON: Thank you for that. But nevertheless the noise we're hearing is coming from the channel, so there may be something to unpick a bit further there.

ADAM BOYD: I mean maybe -- sorry, Adam Boyd, ASB. One other point; turnaround times, like, extend in both channels. So I think it's not surprising that you would be hearing noise from time-to-time that turnaround times are blowing out, because they absolutely do. I would be surprised if we're seeing massive differences between the channels.

TRISTAN GILBERTSON: Thank you. Patricia, did you have something you wanted to say on that?

PATRICIA MARSDEN: Yeah, quite strongly. Unfortunately that is not my experience. I don't think it's a policy issue, I think it's a resource issue. I don't think that often the broker units have sufficient resources to handle the volumes that they receive. For example, ASB small business turnaround, we've got -- consistently getting a three to four week turnaround before it's even picked up. And I know for a fact that people who deal directly with their business manager will get a quicker response. And sometimes we have even referred clients who do require that quick response to actually deal directly, even though it cuts us out, because time is the highest priority.

So I don't think it's a policy thing, and I do believe that banks are more in partnership with brokers now, which is great, more so than I've ever seen. However, I do believe it's a resource allocation issue, not a policy issue.

TRISTAN GILBERTSON: All right, thank you for that. Just finally want to move on to the third topic where we have a couple of disclosure-related questions for advisors and the banks. Banks are increasingly, seem to be increasingly, from what we can see, encouraging consumers to re-fix their mortgages when fixed terms expire, doing so through their apps, even if the consumer has an active mortgage advisor in place. We'd like to understand whether that's a good thing or a bad thing. On the one hand it's certainly quick and easy for consumers, but on the other hand it potentially bypasses an opportunity for consumers to get mortgage advice from their advisor.

So the question for lenders, really, is should lenders be required to remind customers who use mortgage advisors that it may be beneficial to seek advice from their advisor prior to re-fixing through the app where that's something that comes through the app? Advisors certainly seem to think so. What's the position of the banks on that?

DAN HUGGINS: Dan Huggins, BNZ, I'm happy to start. We will respond to the demands of our customers and the services that we're providing, particularly in the app, are a direct response to our customers saying they want simple and easy ways to do their banking and we provide that for our customers.

We also, you know, pay a trail in our case, others do differently, which acknowledges that there are ongoing relationships with brokers and they continue to provide that service to customers when they need it. That may be at the time of re-fixing, it may be at other times during the loan. But ultimately we're here to serve customers and that's what our systems do in response to customer demand.

TRISTAN GILBERTSON: Thank you. Any other comments?

PATRICIA MARSDEN: Sorry, I know I'm being a bit mouthy, but I think that the online apps are great for information but they are very poor at encouraging clients getting advice and I think we need to differentiate between the two. I believe that on the apps there's a lot of words in there that covers the banks' backside and, you know, like saying "I understand, I've read the terms and conditions" and stuff, whereas most of my clients don't. It would be really nice to see on those apps "if you would like advice on how long to fix for, click here", and go to either a bank representative or the advisor that is responsible for that client.

NICK HAKES: Can I just jump in here please, Nick Hakes for Financial Advice New Zealand. I think this is a nuance between an advice-led conversation and a product-led conversation. And there's room for both, it depends on people's trigger events to go and access any type of financial product.

But if we're about competition and delivering good consumer outcomes, then empirically great financial advice delivers that. So if we have product manufacturers, service providers who believe in an advice-led conversation, then it's not just around apps, they need to enable an advice channel in all things that they do. That doesn't mutually exclude having a product-led conversation, that's an omni-channel strategy. But if we're here to talk about the role of mortgage advice, delivering competition, choice, good consumer outcomes, then all aspects need to be an advice-led conversation.

TRISTAN GILBERTSON: Thanks Nick. Paul.

PAUL FULLER: Yeah, Paul from Mortgage Room in Blenheim. Just one thing with re-fixing online that I see quite regularly, is the client's lending margins being reviewed, the low equity premium, or a margin not being reduced when the client has got 20% equity. It's something that I see a lot of clients re-fixing online not realising that they're actually being charged something they shouldn't be charged.

JOHN SMALL: That's probably the worst outcome, or the risk, perhaps, that we're trying to guard against here. Dan.

DAN HUGGINS: Dan Huggins, BNZ. We automatically remove that premium as soon as the loan drops down below 80%, so it automatically comes off.

SPEAKER: Sorry, couldn't hear that.

DAN HUGGINS: The low equity premium automatically comes off the loan as the LVR drops below the threshold.

PAUL FULLER: When is a revaluation done on the property? What are we using to justify the test?

JOHN SMALL: Or are you just doing it on the basis of the loan and the original value?

DAN HUGGINS: That's right, yeah, it's on the amortising curve, but in recent cases obviously property values have fallen, so we're not starting to revalue and start charging people that, which would be the case at the moment.

BEN KELLEHER: Hi, Ben Kelleher here from ANZ. We do that on a monthly basis and we always do it in favour of the customer, so it's something that we do dynamically. Just on the digital channels, we introduced this because generally speaking it's something that customers have wanted us to do. We talked yesterday about making things easier, this is one thing that makes it easier for customers to interact with us. And we do provide the option to contact us should they want to restructure or do something different. And obviously that includes talking to a mortgage advisor as well, should they wish.

TRISTAN GILBERTSON: Thank you. Jeff, is there something you wanted to add?

JEFF ROYLE: I think, going back a bit, actually, with the conversation around everything being price-driven. I still believe that price is inherently important and it's often the starting point of a conversation. That very quickly leads into policy. And as one of your previous speakers said, policy varies significantly between product providers, and not only does it vary today, it will change tomorrow and maybe the day after that.

So just because a product provider comes in saying you can have 6%, it may well be that the trade-off of that product might be you can only borrow $500,000 whereas actually you need to borrow $600,000. So although the price point was the starting point, it's very rare that it ends up being the finishing point.

And at the end of the day, best outcome for the consumer is a mix of "can I have what I want" and "can I have it at a price which is acceptable"? I think driving everything on price is an error. And at the end of the day, within reason, all major product providers in New Zealand are about the same. It's the policy differences which can mean the difference between a consumer having what they want or not. So that's just my comment on interest rates.

I did pick up, and forgive me, I didn't pick up the name of the person that mentioned it, but I did bristle a bit where somebody said that the banks rewarded advisors based on volume. I am not aware of that and I would really like to know where that came from.

Going forward, I think disclosure documents give a consumer a really good idea, a good handle on who we are, what we are and how we do things. At the end of the day it's consumers' choice. If they particularly want a lender, Kiwibank is a classic example at the moment, and I do acknowledge Kiwibank in really trying to engage with the broker channel more and more, it is really important to them and all product providers.

But if somebody particularly wants Kiwibank and they look at my disclosure statement, for example, Kiwibank's not there. And so two things will happen. One is the consumer will move on to another advisor who do have a Kiwibank accreditation, or they might pick up the phone and say "Hi, I really like you as a person, I like the way you say things, I like your reviews and all the other stuff that people say; you don't have Kiwibank, why not?" And I will say "Because I don't have accreditation, there's no particular reason. Why did you want to use Kiwibank?" And they might say, "Well, I really like their offset products" and I might say "Well, actually did you know that both Westpac and BNZ offer an offset product." And they may say yay or nay.

So this is all about engagement with a consumer to get the outcome that is right for the consumer. And if it comes down to the best interest rate, that may well be the case. But in my experience, which is, some people might say, way too long, my experience is, interest rate is a vital part, it's not the most vital part. That's all I have to say.

TRISTAN GILBERTSON: Thank you Jeff. We're running slightly over time, so I just want to wrap up now with one quick final question, again, disclosure related; on the issue of claw-backs, which is very noisy issue in the industry and certainly a focal point of complaints feeding into the disputes resolution system. We seem to have, at the moment, a situation where at the front end of the process advisors are required to disclose the risk of claw-back to consumers, early termination fees, and for the most part they're doing so. But advisors are not warned by lenders if a customer later attempts to refinance independently, use another advisor, or pay off their loan early. So as a result, they can't remind customers of their claw-back obligations at the very time it matters the most.

So the question, again for the banks really, is should not there be a corresponding obligation on the banks in this situation to balance the equation out?

JEFF ROYLE: If there's no answer I would like to say something on this.

DAN HUGGINS: I'm happy to start, Dan Huggins, BNZ. Often if a customer is refinancing from BNZ to ANZ we will see that at the back end, we will get a discharge request for that mortgage and then it will go, or similarly with a paydown. Often if someone has a bonus, or something, and therefore they've paid something off, then you'll see that money come into their account, the loan is paid off.

So I might be misunderstanding the question, but I think it would be very challenging for us to be able to put a process in place which warned everybody when actually you're already there when we see those paydowns or those discharges come through.

JOHN SMALL: What if it was stimulated, for example, by a button on the app that said "re-fix" or something like that. So in other words it was something that you were offering and they were accepting from you, if that was the trigger?

DAN HUGGINS: If they were refinancing away because of a re-fix?

JOHN SMALL: Re-fixing with you.

DAN HUGGINS: We have on the app now, I think as similar to others, we have on the app now "If you'd like advice, if you'd like to talk about this then you should call this number", and if they call us -- Adam, correct me if I'm wrong -- if they then call us we would say "Hey, you're a broker customer" and we would say "Do you want to talk to that broker as well?" So we have that in the app, I think, as what was discussed before was recommended, we have that now linked to the fixing screens in the applications.

EMILY MENDES RIBEIRO: Emily Mendes Ribeiro, ANZ. I think probably the other point, so if a customer's re-fixing at the same bank it wouldn't trigger a claw-back, just to that point, I think that's common across the industry.

But the second point there is I think you need to acknowledge that lawyers play a role in this ecosystem as well. And typically claw-backs are triggered when loans are discharged with one bank and then taken on by another. So lawyers often will play a role in providing consumers advice in that regard.

JOHN SMALL: Because they're switching the legal mortgage document?

EMILY MENDES RIBEIRO: Correct, yes.

DAN HUGGINS: And sorry, I should clarify from a BNZ perspective as well there is no claw-back on a re-fix. Sorry, I misunderstood.

JEFF ROYLE: I'd like to comment with regard to this please.

TRISTAN GILBERTSON: Sorry Jeff, just one second.

LEIGH HODGETTS: No Jeff, please speak up.

JEFF ROYLE: Okay. We are, as you quite rightly say, under an obligation in our disclosure statements to advise somebody at the outset what happens if they repay their loan early. At the other end of the story, there seems to be no obligation on a product provider who are advised by a consumer that they intend to repay their loan early, other than at the moment a lender will say "Yeah, if you repay your loan early you may have a break fee of, whatever it might be, and there may be a discharge fee of X dollars."

There's no reference to potential claw-back and there's no reference to other costs that a consumer may incur. So this came about 18 months ago where a lady repaid early because she came into an inheritance. She emailed the product provider to ask for any charges and she was told in writing there were no charges. The end result of that was it cost her $5,500 to repay her loan early and this was a mix of claw-back liability to my practice and it was a very complicated trust structure and her legal fees was over 2 and a half grand.

Had the lender said to that consumer, and all other consumers, "In the event of early repayment we know you came to us via the advisor channel, and in addition to your break fees, you may, because not all advisors recoup the claw-back, you may have other fees and costs associated with repaying your loan early, we strongly recommend you engage with your advisor."

Since that event 18 months ago, one product provider, which is Resimac, actually do state that in their early repayment email or letter to a consumer. And I see no reason why all lenders cannot do this, because they know, A, that the application came to them originally through the advisor channel, they will also know the date on which that loan drew down, and therefore the maths in the claw-back period cannot be that difficult to calculate.

So all I'm saying is that all lenders, in the event that they are asked by a consumer to repay a loan early, they disclose to that consumer what they may indeed be up for further fees and charges and that they should consult with their advisor.

TRISTAN GILBERTSON: Thanks Jeff. So you'd like to see the Resimac practise extended across the board from the sound of it?

JEFF ROYLE: I believe there is a duty of disclosure on lenders to do that, because at the end of the day, go back to the example where a lady was told in writing by the lender that there were no charges for repaying her mortgage and she ended up with a bill of 5 and a half grand. I cannot see the good consumer outcome in that situation.

LEIGH HODGETTS: So as an association that's what we're supporting. Looking around the table here, and there's lots of people writing notes and nodding, and I could see it's not a difficult process to put in place. And we refer so much business through the intermediary channel through mortgage advisors to your businesses, it would be great if we could work on this together, because it would give consumer outcomes a huge lift and avoid some of these issues and fees and busted up relationships with advisors that didn't have an opportunity to manage it, or to do something differently to help the consumer. So really appreciate it if we could take that one on-board, thank you.

TRISTAN GILBERTSON: Thank you, that sounds like a very positive note to --

JOHN SMALL: Shall we get a bit of reaction from these. Antonia.

TRISTAN GILBERTSON: Okay, sure.

ANTONIA WATSON: I was just going to go back to the consumer interest, because it's really clear here. We will initiate a claw-back if a consumer has refinanced to another bank, which would probably be in their interests, and in that case they would have been back at their advisor. So, you know, if someone's paying off their loan early, that's absolutely in their interests and we wouldn't trigger a claw-back in that case.

JOHN SMALL: So just to be clear, do you have a concern with the suggestion that --

ANTONIA WATSON: No, and we don't do that if someone pays off a loan early. What I'm saying is that makes good sense for a consumer. It's in their interests to be encouraging them to pay off a loan early.

TRISTAN GILBERTSON: Different practises in different banks by the sound of it.

JOHN SMALL: Yeah. Okay, good.

PATRICIA MARSDEN: Sorry, is there any chance to speak on this? Because this is the whole reason why I was really excited to be on this panel. The issue of claw-backs, I would challenge that any bank would waive a claw-back to the broker if a loan was refinanced or repaid within a short period of time. And short is deemed to be four years with the bank. I would like to see that align with Australia which is more like 6 to 12 months. Because within that period of time there's a lot of things that can change with a client; inheritance, death, matrimonials, their goals can change and they are no longer suitable, like the bank that is with them, it might not be in their best interests for that, and having that lending may not be in their best interests. So the broker is compromised even up to four years down the line of initially placing and doing that service to the client.

TRISTAN GILBERTSON: Thank you very much, Patricia. Unless there are any further comments in the room, now is a good time to wrap up for some lunch. Thanks everybody for sharing your thoughts, really, really appreciate that. We'll reconvene at 10 past 1. Thank you.

Lunch adjournment from 12.18 pm to 1.11 pm