

The Commissioners
The Productivity Commission
4 National Circuit
Barton ACT 2600

28 September 2017

By email: financial.system@pc.gov.au

Dear Commissioners

INQUIRY INTO COMPETITION IN THE AUSTRALIAN FINANCIAL SYSTEM

The Australian Finance Industry Association (**AFIA**) thanks the Productivity Commission for extending the time within which AFIA is able to contribute to the Commission's consultation paper, *"Inquiry into Competition in the Australian Financial System"* (**Inquiry**).

AFIA is well placed to comment to the Inquiry given our broad and diverse membership across the financial system. Our membership encompasses consumer and commercial financiers, including ASX-listed companies, customer owned and regional banks, captive financiers, fleet lessors, fintech firms, insurance premium funders and credit reporting bureaus. Collectively, our members represent the future face of credit to individuals and business.

AFIA would like to make some specific comment in relation to item 4, Scope of the Inquiry, namely *"examine barriers to and enablers of innovation and competition in the system, including policy and regulation"*.

In AFIA's view a healthy financial system is one which optimises the balance between business competition, system stability and appropriate consumer outcomes (given individuals chosen position along the risk-reward continuum). This is a difficult balance to achieve at any given time. This is even more difficult to achieve in times such as now where protectionist sentiment is given weight in policy design and consequently law-making. In this environment it can be tempting for law makers to regulate their way to justice for particular individuals (here and now) at the expense of other individuals, who become less able to access financial products as competition lessens across the market (over time). This is not a new issue. It is just that the temptation is presently greater.

In AFIA's view the Australian financial services system is a heavily regulated market at risk of becoming an over-regulated market, should this temptation not be tempered. Over-regulation favours market incumbents since they possess the existing expertise and resources to better cope with the regulatory burden. As the Productivity Commission has previously observed *"small businesses face a higher burden from complex and unclear regulation and greater challenges in understanding their compliance obligations than larger businesses"*.¹ This burden is also borne by smaller businesses seeking to compete in Australia's financial services sector.

At present the Government is committed to, or considering, a multitude of regulatory reform initiatives across the financial services sector. All of these reforms, if implemented, will individually and/or cumulatively have an impact, direct or indirect, on competition within the financial services sector.

¹ *Regulator Engagement with Small Business*, Research Report, Canberra 2014 as cited in Treasury paper, *Regulation and small business*, J Douglas and A Land Pejaska, August 2017.

However, few of these consultations are explicitly required by their terms of reference to take account of possible anti-competitive impacts (due to over-regulation) when reaching recommendations. We acknowledge that Government consultation generally follows a process framed by broader policy commitments of best-practice making regulation and red-tape reduction which have inherent a need to consider competition. But, we submit a specific requirement in each consultation that the impacts on competition must be considered has the benefit of giving the broader policy commitments integrity and acts as a useful reminder of the need for this element to be specifically considered against the particular issue and the market and regulatory environment more generally.

We also note a further limitation with current consultation processes with the various expert panels who increasingly conduct these consultations not necessarily best placed to gauge those anti-competitive impacts given few are drawn from business or have direct experience of implementing regulatory compliance within a real business.

AFIA RECOMMENDATIONS:

1. The terms of reference to consultations into the financial services market should explicitly require the persons conducting the consultation to consider the possible anti-competitive impacts (through increased regulatory burden of that or other related consultations) of proposed recommendations that will impact the Australian financial system.
2. Expert panels conducting consultations into the financial services market should include within their composition persons drawn from business with experience of implementing regulatory change within a financial services business.

If you have any queries in relation to this submission please do not hesitate to contact me or Paul Stacey, Associate Director – Policy

Kind regards

Helen Gordon
Chief Executive Officer