consumer.

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Commerce Commission
By email to: marketstudies@comcom.govt.nz

SUBMISSION on the Personal Banking Services Market Study-
Draft Report

1. Introduction

Thank you for the opportunity to make a submission on the 'Personal Banking Services Market Study' Draft Report (the Draft Report). This submission is from Consumer NZ, an independent, non-profit organisation dedicated to championing and empowering consumers in Aotearoa. Consumer has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

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2. General comments on the Draft Report

Consumer NZ has been highlighting issues in the banking sector for many years so welcomes the Commerce Commission's (the Commission) Draft Report.

We agree with the Commission's view that major banks do not currently face strong competition when providing personal banking services and this means New Zealand consumers are missing out.

We largely support the preliminary recommendations in the Draft Report. In our view, these recommendations, if adopted as a package, are likely to improve competition in the banking sector. However, we are very concerned the report doesn't explore the connection between the consumer detriment resulting from the appalling lack of investment in fraud detection and prevention by the banks and the lack of competition in the sector.

We consider the lack of action by the sector to combat scams is a clear indicator that competition is not working as it should to produce outcomes that improve the value and service offered to consumers.

The failure to introduce confirmation of payee and other fraud detection and prevention measures that reduce victimisation of banking consumers provides concerning evidence to support the contention that the current state of competition is not putting pressure on the banks to lift their fraud prevention posture to retain customers.

Similarly, the failure of the sector to develop a reimbursement regime for victims of authorised push payment scams and the ability of the sector to delay any consideration of amendments to voluntary codes and not face a backlash from consumers (or regulators), indicates the sector is not working for the benefit of customers. In more competitive markets, such as the UK, consumers have had these protections for some time.

We urge the Commission to consider these issues in its final report and recommend the banks to go beyond paying lip service and make meaningful efforts to protect their customers from scams.

We also think further thought needs to be given to monitoring the sector after the Commission releases its final report. This is particularly important given the sector's long track record of successfully delaying progress on many initiatives that require investment, including improving basic scam protections, the introduction of open banking and the modernisation of the payments system.

We have set out brief comments below on each chapter of the Draft Report and the draft recommendations. However, we remain concerned about the lack of resources for those representing consumer interests in this process, compared with the resources and access of those representing the banking sector. In our view, this resource imbalance is likely to distort the process and result in less than favourable outcomes for New Zealanders.

We strongly urge the Commission to consider this imbalance when analysing responses to the Draft Report and formulating its final report. We also urge the Commission to ensure these issues are addressed in future market studies.

3. Comments on chapter 1 – Introduction and purpose

As noted in our previous submission, although we see substantial merit in a full sector study, we support the focus on personal banking services to ensure the market study is manageable in the timeframe provided.

That said, we are disappointed credit cards and personal loans have been excluded from the scope of the study. The rationale given by the Commission for excluding these types of products is that the supply of these services is less concentrated, and they are not as important to understanding the competitive dynamic of personal banking services as home loans and deposit accounts are.

While we agree home loans and deposit accounts should be a primary focus of the market study, we consider personal loans and credit cards should also be included, as the then Minister, Duncan Webb, suggested they would be in his 2023 cabinet paper.[1]

Credit cards and home loans are an important part of the consumer banking landscape. In New Zealand more credits cards are issued than home loans or personal loans granted. In fact, more than 50% of people (aged over 20 years) have an active credit card.[2] About half of credit card debt is interest bearing and can be a source of real harm for consumers.

For a long time, banks have been quick to hike interest rates on credit cards but slow to reduce them, which may indicate a lack of competition. The complexity of credit card offerings also makes it very difficult for consumers to make an informed choice about which best suits their needs.

In our view, these issues demonstrate that competition is not working well in the credit card sector.

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[1] Retrieved from https://www.mbie.govt.nz/dmsdocument/26848-initiating-a-market-study-into-personal-banking-services-proactiverelease-pdf on 9 April 2024

[2] Retrieved from: https://www.interest.co.nz/personal-finance/124434/we-may-be-using-credit-cards-more-transactions-more-devices-ever-we-have on 9 April 2024

We therefore urge the Commission to include credit cards, as well as personal loans, in the market study as was originally intended. Failing this, we intend to urge any subsequent Select Committee to examine issues in the credit card and personal loan markets.

4. Comments on chapter 2 – Nature of competition in personal banking

We agree with the preliminary findings in Chapter 2.

Our most recent banking survey[3] found 92% of consumers consider one of the five largest banks to be their main bank, which supports Verian's findings. Our survey also found multi-banking is popular. In 2024, 36% of people used an additional bank for everyday personal banking.

However, we disagree with the statement that "competition is not working well for some consumer groups." In our view, competition is not working well for any banking consumers in New Zealand. Some groups are particularly vulnerable to financial exclusion, but the lack of competition is impacting all consumers in New Zealand.

Please also see our comments below on chapter 8 regarding the lack of switching and customer inertia.

5. Comments on chapter 3 – Māori perspectives on competition for personal banking services

We support the preliminary findings in chapter 3.

While we understand the issues identified, we are not a specialist Māori organisation, and we are not experts in Te Tiriti o Waitangi, Te Ao Māori, or tikanga Māori. We therefore encourage the Commission to engage the relevant experts and communities to ensure any issues that are unique to Māori are addressed.

6. Comments on chapter 4 – Competition for home loans

We agree with the preliminary findings in chapter 4.

[3] Our data are from a nationally representative survey of 1996 New Zealanders undertaken online between 29 January 2024 and 15 February 2024.

Our latest banking survey shows[4] that fees and interest rates are the top two factors considered by consumers when comparing banks, with 46% of customers rating fees as the most important factor, and 39% of customers rating interest rates as the most important factor. Despite this, only 3% of customers switched banks in the previous 12 months. Of those who did switch banks, 27% did so because they had a mortgage with another bank.

We are concerned about these very high levels of inertia and the barriers to switching identified by the Commission. These issues are discussed further in our comments on chapter 8 below.

We agree mortgage advisors could help to drive stronger competition for home loans but are not surprised that, on average, they are not getting lower interest rates for their customers.

We also agree with the Commission's views that mortgage advisors may face a conflict of interest with their clients because they are incentivised to recommend a lender that pays them the best commission, even if that lender is not the best fit for the borrower.

We have been calling for a ban on commissions for at least 10 years because:

- they have been shown to lead to poor advice in the financial service industry.
- they create a conflict of interest and managing this conflict is problematic.
- disclosure doesn't necessarily resolve the problems that commissions create.
- evidence showing the potential for commissions to distort financial advice has led authorities in other jurisdictions, such as the UK, to ban commission payments all together.
- banning commissions addresses concerns about "churn", the practice of moving clients from one financial product to another so the advisor can receive more commissions.

We therefore urge the Commission to consider other options to address the issues identified with mortgage advisors, including banning incentives.

[4] Our data are from a nationally representative survey of 1996 New Zealanders undertaken online between 29 January 2024 and 15 February 2024.

7. Comments on chapter 5 – Competition for deposit accounts

We agree with the preliminary findings in chapter 5.

We are concerned the major banks and Kiwibank hold $58b of non-interest bearing deposits. We are also concerned deposit rate increases can lag behind the increases in wholesale and mortgage rates.[5] Both these issues mean consumers are missing out on valuable savings. It is unclear from the Commission's preliminary findings whether the ability of the sector to maintain this lag has been considered as an indicator of muted competition.

Our most recent banking survey[6] found 24% of people are dissatisfied with savings interest rates, 23% are neutral, 26% are somewhat satisfied and only 27% are very satisfied.

Our latest Sentiment Tracker[7] found nearly half the population is anxious about their level of savings or have none to speak of. It's expected this situation will worsen with almost four in 10 New Zealanders anticipating their savings will decline in the coming year. It is therefore critical that New Zealanders have access to better deposit rates and that increases in rates are passed on to depositors in a timely manner.

Although the Financial Markets (Conduct of Institutions) Amendment Act 2022 (CoFI) (if it isn't repealed before coming into force) may go some way to addressing these issues, we do not consider it will be sufficient. We therefore urge the Commission to consider recommending the adoption of a specific 'consumer duty', like that in the UK, requiring institutions to ensure products are fit for purpose and offer fair value to all customers over the lifetime of the product.

This would ensure banks offering no or low interest rates for deposit accounts are required to demonstrate this is fair to consumers. It could

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[5] Retrieved from https://www.rbnz.govt.nz/hub/news/2023/02/reserve-bank-increases-the-official-cash-rate on 11 April 2024.

[6] Our data are from a nationally representative survey of 1996 New Zealanders undertaken online between 29 January 2024 and 15 February 2024.

[7] Our Sentiment Tracker data is collected quarterly and is based on a nationally representative sample of at least 1000 respondents. Results are weighted by age, gender and region based on Stats NZ 2018 Census data.

also address any time lags in rate changes when there is a change to the Official Cash Rate.

Our comments on switching and inertia are set out under chapter 8 below.

8. Comments on chapter 6 – Profitability of New Zealand's banking sector

We support the summary of preliminary findings in chapter 6.

We are not surprised with the Commission's preliminary findings that the profitability of the New Zealand banking sector is high relative to peer nations overseas and that New Zealand's major banks have experienced high average returns on equity compared to other New Zealand banks.

We are concerned the big four banks are making higher profits from their New Zealand customers than they are from their Australian counterparts. We also agree with the Commission's view that the New Zealand banking sector's profits are higher than they would be if the major banks faced greater competition.

As stated in our previous submission, we have heard some commentators say that New Zealanders are being charged a much higher margin on their mortgages than those in comparable countries so we would like to see an analysis of this by the Commission in the final report. If this is true, the additional sums that New Zealanders are paying for their mortgages over a 30-year term, could be significant.

In our view, it is critical the Commission provides information like this in its final report to help paint a clear picture for New Zealanders and the relevant Government decision-makers about what the lack of competition in the banking sector is costing New Zealanders.

The Commission found that New Zealand supermarkets earn $1 million a day in excess profits because of a lack of competition. In our view, a comparable finding for the banking sector will help consumers engage with the issues and better understand what it means for them. This level of transparency may also encourage consumers to switch providers.

9. Comments on chapter 7 – Regulatory factors affecting competition

We support the summary of preliminary findings in chapter 7.

We agree New Zealand banks are highly regulated. The primary purpose of these regulations is to promote financial stability and ensure consumers are protected, as well as a range of other policy objectives.

Notwithstanding this, we agree the capital requirements and overall regulatory burden is likely to have created barriers to new entry and to smaller providers expanding, particularly because the costs disproportionately affect small providers, to their disadvantage.

We support the Minister's decision to review the Credit Contracts and Consumer Finance Act (CCCFA), regulations and other financial services legislation. However, we have previously expressed concerns about the apparent desire to make changes to the CCCFA with urgency. In our view, a thorough review is required before any further changes are made. Rushing through changes is only likely to create further issues for banks and consumers alike.

The changes to the CCCFA that were introduced in late 2021 created issues for some people attempting to access credit. However, since the 2022 and 2023 amendments were introduced, we have not received any more complaints from consumers about difficulties accessing credit. Therefore, we are not convinced there is sufficient evidence there is an 'access to credit' issue for consumers under the CCCFA. In our view the changes to the CCCFA have resulted in better protections for vulnerable consumers from being sold unaffordable or unsuitable debt.

However, we are also aware the recent CCCFA amendments have added to the regulatory burden for lenders. Therefore, rather than piecemeal amendments to lending rules, we consider it would be more appropriate for the Government to conduct a review of the entire financial services legislative framework and for the Reserve Bank to ease the capital requirements, provided this is done in a way that does not put the banking system, or consumers, at risk. We believe this should be reflected in the Commission's recommendations.

10. Comments on chapter 8 – Consumer search and switching behaviour

We agree with the preliminary findings in chapter 8.

Customer inertia
We are concerned about the very high levels of customer inertia in personal banking. In our latest banking survey[8], 15% of people said they are likely to switch from their primary bank in the next 12 months. However, as mentioned above, only 3% of customers switched from their primary bank in the previous 12 months. This is down from 4% in 2023.

Our survey also found 84% (of those who hadn't switched in the preceding 12 months) had been with their bank for 5 years or more. This increased from 81% in 2023.

This inertia provides the incumbent major banks a significant advantage over their smaller rivals.

Customer perceptions of switching
In our latest survey, only 41% of people perceived switching to be easy and 31% of people perceive it is difficult. However, of the small number of customers that had switched in the previous 12 months, 87% found it easy and only 7% found it difficult.

So, although switching is easier than it is perceived to be, these perceptions are still creating barriers to switching.

Other barriers to switching
Other barriers to switching include financial barriers (i.e. the cost associated with switching banks), the time and effort required, the complexity of offerings in the market, the lack of comparison sites and lack of an effective switching service.

In our latest survey, we asked customers what factors were most likely to deter them from switching. The results were as follows:

Satisfied with my current bank	**45%**
Lack of obvious benefit	**38%**
Lack of difference between banks	**26%**
Difficulty switching	**25%**
Time it takes to switch	**23%**
Loyalty	**20%**
Access to a branch	**14%**

[8] Our data are from a nationally representative survey of 1996 New Zealanders undertaken online between 29 January 2024 and 15 February 2024.

Online security	**14%**
Too hard to compare banks	**13%**
Breaking fixed-term loan/s with current bank	**13%**
Breaking fixed-term investment/s with current bank	**9%**
Other	**2%**

These barriers limit competition and need to be addressed. In our view the recommendations in the Draft Report don't go far enough to address customer inertia and barriers to switching.

We urge the Commission to consider making additional recommendations in its final report to promote comparisons and switching. For example, banks could be required to:

- present all products in a readily comparable manner, and
- display customer satisfaction ratings on their websites, apps and in branches, as has been required in the UK to promote switching.

In our view, to be effective, a comparison and switching service should be accurate, reliable, independent, well-funded and include pricing information for all products on offer. We would be happy to discuss how we run Powerswitch as a comparable example in the electricity sector if that would be useful.

11. Comments on chapter 9 – Digital disruption and impediments to innovation

We agree with the preliminary findings in chapter 9.

We are concerned with the limited investment in core banking systems by the four large banks and Kiwibank and the lack of innovation in the banking sector generally and consider these issues are a direct result of the lack of competition in the sector.

Open Banking

We are also concerned about the glacial progress of open banking. The UK Government describes open banking as a "major success in securing positive outcomes for consumers and small businesses and improving competition in retail banking." We therefore support the industry being given the firm and imminent deadline of June 2026 to introduce open banking. The industry has proved it cannot be relied on to innovate, including through open banking, if left to its own devices.

As a result of the slow progress on open banking, consumers are missing out on innovative offerings from fintechs such as Revolut, Zeal, Jude and Douugh.

They are also missing out on basic services and protections, such as Confirmation of Payee and real time payments. For example, in New Zealand, POLi payments have come about to fill a gap in the payment market due to the failure of New Zealand banks to develop a modern, secure system for making real-time payments. POLi payments allow people to make payments directly from their bank account to a merchant without the need for a payment services provider, like Visa or Mastercard that will charge a fee to process a payment.

The payments are widely used by companies like Air New Zealand, Jetstar and Bunnings, and even by government agencies like Waka Kotahi.

However, the service comes with considerable risk to consumers because they are required to provide their internet banking log-in details to allow the merchant to generate the payment. This is a potential breach of most of the major banks' terms and conditions and can mean they won't be protected if they are scammed.

The fact POLi has shut down its operations in Australia but continues in New Zealand is evidence of the continued lack of innovation in New Zealand.

Scams

As mentioned above, the lack of innovation in the personal banking space is having destructive consequences when it comes to scams. Our scam protections are lagging seriously behind those in overseas jurisdictions such as the UK, and even the banks' own parent companies in Australia.

This lack of investment has had a devastating impact on New Zealanders who have been scammed.[9] While the Ministry of Business, Innovation and Employment estimated the total loss to New Zealanders was around $200 million in 2023[10], we believe it is a lot higher.

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[9] Retrieved from https://www.consumer.org.nz/articles/scams-should-your-bank-be-liable-for-losses on 10 April 2024.

[10] Retrieved from https://www.mbie.govt.nz/about/news/198-million-dollars-lost-to-scams-in-the-last-year/ on 11 April 2024.

According to Netsafe's State of Scams country report, New Zealanders who reported being scammed faced a cumulative total economic loss of nearly $2 billion in 2023 alone.[11] In our view, banks have a moral responsibility to do more to detect and prevent scams. Given the existing lack of protections have arisen through the lack of competition in the sector, we strongly urge the Commission to surface these issues in its final report.

In the face of the urgent need to protect consumers and widespread public criticism, the New Zealand Banking Association recently announced banks will be reviewing international best practice for reimbursing customers who lose money through authorised payment fraud, such as romance and investment scams.[12] It is concerning that, despite the urgent need to act, the sector is going to take almost six months to complete what should be, with the appropriate resourcing, a relatively simple desktop exercise. Indeed, the Commission could probably outline international best practice in its final report with relatively little effort and give the sector a head start.

In addition to its delaying tactics, the industry has only made vague commitments about whether it will make any actual changes to its voluntary code once its review is complete. At an individual bank level, there is clearly no incentive to be the first mover and offer better protections and reimbursement to victims of authorised payment fraud. In our view, Government intervention is essential. The UK experience proves the use of a voluntary industry code requiring scam victims to be reimbursed does not work as it resulted in the UK banks treating customers inconsistently and unfairly, and a so-called 'refund lottery'.

We urge the Commission to consider these issues in its final report.

12. Comments on chapter 10 – Draft recommendations

We largely support the draft recommendations set out in Chapter 10. Our brief comments on selected draft recommendations are set out below.

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[11] Retrieved from https://netsafe.org.nz/wp-content/uploads/2024/03/Scam-victims-given-new-avenue-for-recovery-of-funds.pdf on 11 April 2024.

[12] Retrieved from https://www.nzherald.co.nz/nz/banking-sector-launches-review-of-fraud-reimbursement-rules-after-criticism-threat-of-govt-regulation/3WE7B5RHQNDHZJDVJOYRMOWAGE/ on 11 April 2024.

Recommendation 1 – the Reserve Bank should review its prudential capital settings to ensure they are competitively neutral and smaller players are better able to compete.
As stated above, if there is room for the Reserve Bank to ease capital requirements without putting the banking system at risk, we support this being done.

Recommendation 2- Kiwibank's owners should consider what is necessary to make it a disruptive competitor, including how to provide it with access to more capital.
We agree Kiwibank's owners should consider what is necessary to make it a disruptive competitor and how it should obtain access to more capital.

Although 90% of Kiwibank customers are satisfied with their bank, our latest survey results show Kiwibank's satisfaction ratings are significantly lower than that of other small banks like TSB (95%) and The Co-operative Bank (96%). We therefore encourage Kiwibank to consider what it needs to do to improve its service levels and customer satisfaction as providing high levels on both counts will offer a point of difference and could disrupt the major banks.

Recommendation 3 – The Government should set clear deadlines and work with industry to ensure open banking is fully operational by June 2026.
We strongly support draft recommendation 3 and agree the Government should set a firm deadline for the introduction of open banking. However, we share others' concerns that industry-owned Payments NZ does not have the right incentives to develop and deploy functional APIs.

We also consider there needs to be some oversight of the commercial arrangements being offered by the banks to third parties to interface with the APIs as we have heard these are used by banks as another means of obfuscating the process.[13]

Recommendation 4 – The Government should reduce the barriers imposed by the AML/CFT regime on banks working with fintechs.
We agree the Government should reduce the barriers imposed by the AML/CFT regime on banks working with fintechs.

[13] Retrieved from https://www.nzherald.co.nz/business/banks-battle-fintechs-for-control-over-how-open-banking-is-rolled-out/PVZPYTB7YJGVBCM3RULVPX3U5Q/ on 18 April 2024

Recommendation 10 – The CCCFA should be competitively neutral with respect to home loan refinancing to make it easier for consumers to switch providers.
We agree switching home loan providers should be easier. However, we urge the Commission to give this recommendation further thought. The Draft Report states: "Competition would be promoted if lenders refinancing a home loan are not subject to additional obligations (in the form of affordability assessments) in comparison to obligations on existing home loan providers in similar circumstances." However, we are concerned consumers could end up with unaffordable mortgages if they switch home loan providers, but the new provider doesn't have to conduct an affordability assessment.

Recommendation 11 – Industry should create an enhanced switching service with appropriate Government oversight.
We strongly support this recommendation but consider any service should be run independently, not by the industry.

Any such service would need to have better functionality than the 'easy switch' service.

Consumer NZ runs 'Powerswitch' – the comparison and switching site for electricity and gas users. We would be happy to discuss our switching service further with the Commission, or other interested parties, if that would be useful.

Recommendation 12 – Home loan providers should present offers in a readily comparable manner.
We agree competition would be promoted by home loan providers giving customers all the relevant information they require to choose the product and provider that best meets their needs. However, we are unsure why the Commission's recommendation is limited to home loan offers being presented in a readily comparable manner. We consider all products – including deposit accounts, credit cards, personal loans, and home loans should be presented in a readily comparable manner.

We also agree mortgage broker incentives need to be addressed. However, we consider this should be included as a separate recommendation in the final report.

Recommendation 13 – Mortgage lenders should pro-rate clawbacks for broker commissions and cash incentives.
We agree competition would be promoted if consumers faced more certain and lower costs when switching home loan providers. In the absence of a ban on commissions, we support the recommendation that industry changes it practices around clawback of commissions and cash incentives so that the clawback amounts recovered from advisors or consumers are pro-rated, diminishing on a linear basis, and calculated monthly.

However, we do not support a voluntary approach. In our view the Government should intervene directly to ensure these changes are made. We have learned from the grocery market study that when left to their own devices to fix issues identified by the Commission, industries can be slow to respond or may fail to respond altogether.

Recommendation 14 – The FMA should produce guidance and monitor mortgage advisors' compliance with their duties under the FMC Act.
In our view, guidance on mortgage advisor duties and monitoring of the sector may not be sufficient to address the conflicts of interest mortgage advisors have with their clients. We urge the Commission to consider other options, including banning incentives.

Recommendation 16 – Industry and Government should prioritise ensuring widespread availability to basic bank accounts.
We strongly support the industry being required to ensure widespread availability and awareness of basic bank accounts. However, we consider there should be minimum standards for basic bank accounts, similar to those in Australia or laws similar to the UK that require the larger banks to provide basic bank accounts.

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