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[AFCA Review](#)
AFCA review - Public submission
Friday, 26 March 2021 6:20:39 PM

Thank you for the opportunity to make a submission in review of AFCA

The Treasury Law Amendment Bill (*putting consumers first...*) is misleading. AFCA in my own cases confirmed AFCA does not put consumers first

In my experience AFCA puts industry first and I recommend the Act be changed to recognise this and stop misleading consumers they are put first when up against an institution with financial and legal firepower

Misleading consumers, as the title of the Act does, only serves to compound any mental health issues

A legally uninformed customer has usually already been through a tortuous and frustrating time dealing with complaint departments and Customer Advocates.

I have consistently experience financial institutions prompt and prod unsatisfied customers including myself to AFCA

I have found AFCA is an easy way to remove complex difficult and persistent case complaints off the banks books with the appearance they are handled independently. They are not.

Banks know AFCA acts more as a small case complaints tribunal.
The average compensation points to this. The lack of transparency of case settlements over \$100,000 also points here.

I recommend AFCA be immediately required to publish numbers of payouts in bands over \$30,000 listed separately for each institution. AFCA has talked big about transparency and the data cube is a good step. But critical data as described is missing

I lodged multiple very specific complaints against CBA and ANZ. AFCA insisted all complaints no matter how different be lumped together.
My intention was to make each complaint simpler and faster.
AFCA complicated and conflated matters by joining as one, then used a failure on one case to close all my cases. This also limited the compensation. This evidences AFCA putting industry first

35 of 36 ombudsman have a history in either banking or law. This is putting industry first where a balance of ombudsman should have backgrounds in more diverse areas such as ACOSS as an example. Having such a high proportion of ultimate decision makers in law and banking has led to confirmation bias

Regulatory capture is an associated serious issue. In an earlier dispute lodged regarding CBA, the ombudsman █ had worked as a lawyer for CBA (I note some specifics were removed from his resume) My case was overseen inside CBA by █
█ had worked with each other. These conflicts should have been prevented from the outset.

In a meeting with the CEO Mr David Locke I put forward a recommendation that a person from a bank for example should be excluded from working on any of his former banks

cases in AFCA. I quoted the five year exclusion the FCA applied in Britain. Mr Lockes one year exclusion only heightens potential conflicts

David Locke and [REDACTED] both agreed with my Model Litigant proposals that I engaged with and helped introduce across eleven institutions. Whilst they stated they expect and will hold banks and institutions to such standards (whether the institution has publicly agreed or not) AFCA has neither published MLP nor held members to account as they said they would

AFCAs statement saying they would obtain documents from members is a farce. Across multiple requests with multiple members documents, critical documents, such as Loan Application Files, bank statements are not forthcoming. Without such papers, which customers are legally entitled to our evidentiary support is white anted

In my multiple cases with CBA AFCA allowed well beyond designated time limits for CBA to respond yet closed my case at the earliest opportunity
Again putting industry first

The worst aspect for me is the mental health consequences where I, like other consumers, expect AFCA to listen to and assist us in obtaining documents and presenting our case. AFCA states they are inquisitorial. I have found AFCA is inquisitorial on behalf of the banks who fund their existence

I was advised by AFCA during my case, after providing a Doctors letter, that no further time would be allowed despite mental illness

Some cases AFCA closed some cases I closed in disgust and full expectation that banks and industry members are put first and ahead of consumers

No opportunity to appeal decisions is provided.

I note too that I attempted to watch (not participate) in AFCAs AGM
But was prevented. Public and consumer observation and participation should be enabled

As a founder of www.BankWarriors.org I have heard from dozens of other consumers cases at the more serious end. The complaints I have heard from a variety of victims of financial institutions is consistent with my own experiences

AFCA should continue only for small claims and a seperate, federally funded, legal cell with experts equal to the lawyers and barristers that bankers engage be put in place to replace AFCA in complaints above \$30,000

Parliament and AFCA have failed 20 million Australian banking consumers

Sincerely

Craig Caulfield

[REDACTED]
[REDACTED]
[REDACTED]

