



Director
AFCA Review Secretariat
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600
Email: AFCAreview@treasury.gov.au

Dear Director,

Re: Submission in Review of the Australian Financial Complaints Authority

Delivering against statutory objectives

1. Is AFCA meeting its statutory objective of resolving complaints in a way that is fair, efficient, timely and independent?

Short answer, **NO**. My case was raised off the back of the Royal Commission into Banking, requests were made to administer waiving all limitations in order to appropriately address the illegal actions of the CBA. The CBA appeared to agree but misled both AFCA and me and then revoked that intent. This case was first raised with FOS in 2015 (they refused to cooperate in resolution) after failures of the OARp and has been sitting with AFCA since **November 2018** and **none** of the engagement has been fair, efficient, timely or independent. A fair assumption is to allege AFCA and CBA have actively conspired to undervalue and deny the capacity to allow for the true damages to be made available.

It has now been with AFCA exceeding **30 months**. When this was lodged, I was told that it would not take any longer than 3 – 6 months. This has caused further mental/emotional and financial damage affecting my quality of life on a much greater scale. This series of unconscionable conduct has now been dragged on for 16 years, it simply is not good enough.

- 1.1. Is AFCA's dispute resolution approach and capability producing consistent, predictable and quality outcomes?

The resolution approach has systemic failures and as a direct result this impacts the capability for AFCA to produce consistent outcomes that put the customer first. The loss calculation system administered only serves to better suit the illegal behaviours of this bank and also demonstrates true inequality and discrimination to the customer in situation where the CBA has acted unconscionably and breached numerous regulatory acts and legislative structures. For example, whilst and prior to the matter being taken to AFCA, in relation to me, the CBA has been actively using power imbalances to manipulate the understanding of the truth. There has been false information provided to the Senate, false information provided to regulators, false information that brings me subject to defamation to the media and **factually false promises made under oath by the CEO** when held to account in a Parliamentary hearing.

The monetary limits need to be removed, the capped compensation limits are an enabler for criminal and professional misconduct. It serves no value in changing the cultural banking sector failures by having those limitations enforced.

In April 2019, after the CBA provided under AFCA false data and false information that was claimed as factual in order to mislead the regulator, in fact committing fraud, I requested for AFCA to provide me the true and accurate ROI percentages year on year of the investment portfolio to date, had the CBA not interfered by robbing me of the investment earnings [REDACTED] he benefitted from by providing false and misleading information to not allow me to have access to what was requested and in turn discriminating me for having a temporary impairment to my mental capacity which classified me at the time as having a “**special disability**” which was fully disclosed prior to engagement.

In April 2021, I still **have not been provided these resources**. This would be the only measure that would allow for the case to be resolved both fairly and predictably with quality outcomes with the customers best interests met.

From what information I have been able to gather with **no assistance from AFCA** and based on the same method used in the CBA initial offer my damages meet somewhere around [REDACTED]. The CBA made an offer for [REDACTED] then reduced this to [REDACTED]. It's alleged after internal (private) discussions between AFCA and the CBA; an unrealistic and unconscionable estimate for [REDACTED] in losses. The information initially provided by the CBA was factually false, untrue and made up to meet their motive, **ignoring the law and guidelines to which they are expected to follow**. What AFCA has now calculated out using their loss calculations simply does not add up in any scenario. In 2015, the loss calculation provided by FOS for up to 2010 was [REDACTED]. This behaviour has led to the allegation of coercion and collusion between those two parties. The CBA breached the guidelines of the scheme on numerous accounts as they breached the guidelines of the OARp. There have been unlawful actions committed by the CBA since 2005 towards me and the past 10 years there has been no realistic attempt of resolution by CBA only deliberately dragging this matter through misleading invalid attempts via IDR and also with AFCA to limit my options and commit further discrimination and commit further criminal activity that gets left unaccountable and ignored.

This has also bought with it a legal bill now exceeding \$70,000.00 after lodging with AFCA that I would not have incurred had this system been above board and efficient and effective. AFCA sets a limit at \$5,000.00 payable by its members where customers need legal assistance. It is implacable.

1.2. Are AFCA's processes for the identification and appropriate response to systemic issues arising from complaints effective?

Not at all. I have made submissions to AFCA relating to these very serious failures and the response has been denial and then accusations to wrongfully pass the blame on are under false pretence. The last time I raised complaints, I was provided written confirmation I would have information made available by [REDACTED]. This date came and passed and still left unanswered. **Incompetence has created inaccuracies and AFCA has provided an estimate that is deceptively or unrealistically low as an attempt to undervalue and mislead the determination** and pursuant to this, the CBA made a new offer that is [REDACTED] offer in 2019, I now see the actions by **AFCA falling into disrepute**. The process is not independent, it is believed by experience to be heavily persuasive to meeting the CBA's influence, not to formulate a full understanding of just how far and great the damages that they have caused equate to and not fulfil a customer's request that was for protection and the damages that correlate to such mechanisms.

There has been no assistance to aid in formulating and mapping out the actual projection if the instructions provided had been administered and appropriate protections were implemented.

These delays have now caused me to lose an additional [REDACTED] I had prior to the protracted and delayed behaviours performed, to which I am told that AFCA cannot be held responsible for, the money would not have been lost had they met the timeline to have this matter remedied and resolved appropriately or been transparent.

I have contacted ASIC and raised concerns, it seems like all other areas it just goes around in circles but is always left unaccountable as with the damages and pain and suffering that this results in for the customer. This is the same cultural behaviour that was demonstrated pre-royal commission. This behaviour falls well below a society's expectation and far below an acceptable standard.

- 1.3. Do AFCA's funding and fee structures impact competition? Are there enhancements to the funding model that should be considered by AFCA to alleviate any impacts on competition while balancing the need for a sustainable fee-for-service model?

The current model simply is designed to fail due to the Government choosing not to introduce all the recommendations which included removing the monetary caps that were outlined and needed as documented by the Royal Commission. It's simple common sense. This system only demonstrates to this sector that there will be **no recourse for unlawful behaviour**. Because, up to now, there simply has not.

Please provide specific examples or case studies to support your responses. These may be provided to Treasury confidentially with any personal details of complainants and case references numbers omitted.

Monetary jurisdiction in relation to primary production businesses

2. Do the monetary limits on claims that may be made to, and remedies that may be determined by, AFCA in relation to disputes about credit facilities provided to primary production businesses, including agriculture, fisheries and forestry businesses remain adequate? N/A

Internal review mechanism

3. AFCA's Independent Assessor has the ability to review complaints about the standard of service provided by AFCA in resolving complaints. The Independent Assessor does not have the power to review the merits or substance of an AFCA decision.

Is the scope, remit and operation of AFCA's Independent Assessor function appropriate and effective?

This itself needs to be addressed. If the Independent assessor has no powers to review or apply damages for failing quality and service provided and only has the ability to raise comments how does this in any way serve to assist customers who have suffered due to the conduct performed? Put blank, it's ineffective and can be used as a mechanism to provide false assertions misleading the public. It simply fails to have any powers to hold any parties accountable for misconduct. It's a fluff piece that has no real quality for engagement and is a waste of expenditure in its current framework.

My situation has been with AFCA for 30 months, the **CBA has repeatedly breached the guidelines**, refused to provide documents and **committed fraud**. This situation and these critical delays have had a substantial **damaging effect on my mental health**, [REDACTED]

[REDACTED] I have been subject to much greater harm and stress as a direct result of the situation created by the CBA in which they

have continued to misuse the legal system, the OARp was a total disgrace and as a result there is a power imbalance which is causing the regulator to act in a manner that establishes coercion and collusion to be common practice.

4. Is there a need for AFCA to have an internal mechanism where the substance of its decision can be reviewed? How should any such mechanism operate to ensure that consumers and small businesses have access to timely decisions by AFCA?

Definitely, the current structure has failed. The current structure is designed to fail the customer, the staff are clearly under immense pressure due to the restrictions and unfair behaviours being normalised and the actions of the banks that breach the guidelines are not leading to good results. My case has been passed through numerous hands in the IDR with the CBA, this alone is a direct breach and a serious contravene, but still ignored as is the damages caused to the customer by this conduct. It is simply wrong the length this bank has gone to in a manner to not resolve the harm they have caused me and the harm that this has caused my life by them dragging this on for more than 16 years is mind-blowing. My entire adult life has been overshadowed by what was done to take advantage of me and my situation. The current behaviour being committed is abusive. I am truly disgusted.

Regards

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