

SUBMISSION 57

BELTINA PTY LIMITED

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3rd October 2008

Mr. Craig Thomson MP
Chairperson, Standing Committee on Economics
House of Representatives, Parliament House
PO Box 6021
CANBERRA ACT 2600



Dear Mr. Thomson

Inquiry into competition in the banking and non-banking sectors

Mortgage brokers play a critical role in maintaining a competitive mortgage market because they subject every loan they originate with either a bank or non-bank lender to independent price scrutiny and comparison with competing products. This process continuously maintains pressure on lenders to offer homebuyers competitive rates and loan features on new lending. It is therefore essential that the Federal Government's proposals to regulate the mortgage broking industry and consumer credit enhance and not undermine competition between broker services and both bank and non-bank lenders offering their own branded products direct to borrowers.

Borrowers from either bank or non-bank lenders will benefit from an efficient, competitively neutral mortgage broking regulation regime which provides them with appropriate consumer protection without adding unnecessary costs to brokers and, ultimately, to borrowers.

Loans originated directly by either a bank branch or a non-bank mortgage provider is not subjected to a process of independent comparison. In those circumstances the loans officer should be required to inform the loan applicant that they act for the lender and not the borrower, and are not able to provide independent advice about whether the loan is appropriate for the borrower relative to other available competing products.

Broking regulation is likely to require brokers to disclose the fees and commissions they receive for broking a loan. While supporting this requirement I believe in the maintenance of a fair and competitive market that requires staff employed by banks and non-bank lenders arranging loans directly with borrowers also to disclose any incentive based remuneration they will receive from selling a mortgage or other financial products related to the mortgage.

The States have agreed to transfer their powers to regulate mortgage broking to the Commonwealth. The Federal Government's Green Paper says work on developing these regulations will be assisted by a draft bill to regulate mortgage broking previously agreed by State Ministers for Consumer Affairs.

We believe this draft bill is flawed with at least three major defects that would cause borrowing costs for homebuyers to increase.

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This is a major housing affordability issue as brokers have originated about 40% of the value of all current home loans.

The first defect is that brokers would be required to independently determine a borrower's capacity to make repayments. This function is properly the role of the lender and reinforced during the US sub-prime crisis that demonstrated the folly of lenders not being responsible for credit checks.

This also has potential for an anti-competitive dimension as it would, by definition, most probably prohibit brokers arranging low doc loans. Under the draft legislation banks are exempt from this requirement, effectively granting them an exclusive right to offer this type of loan product. People who need low doc loans, like small business operators and families relying on part-time and casual employment, would be denied the services of a broker to help them choose the best loan amongst competing products. Instead, borrowers would only be able to deal with a bank or non-bank lender selling its own products and, as it does not act impartially for the borrower, will lose independence of advice that can be provided by a broker.

The second defect is the provision to give borrowers the right to seek a stay of enforcement of their mortgage against the lender if the borrower has a dispute with their broker. This interference with lenders' security will:-

1. Increase the risk premium required by lenders resulting in higher interest rates.
2. Increase the premiums on Lenders Mortgage Insurance paid by first home buyers
3. Increase Professional Indemnity Insurance premiums paid by brokers

The result will lead to an increase to the cost of broking services and lending margins.

The third defect is the substantial increase in documentation that must be produced by a broker. This would provide little value to homebuyers yet inevitably add further to their costs in obtaining a mortgage loan. It is important not to repeat the mistakes with Financial Services Regulation that added so much to costs that many people were priced out of the market for advice from financial planners.

Apart from significantly adding to the costs of homebuyers these defects will lead to an important shift away from the lending responsibilities of banks and non-bank lenders and this in itself threatens the independence of the broking industry. While brokers must be held accountable for dishonesty and fraudulent behaviour I do not believe we should assume key roles that have historically been a mandatory undertaking by banks or non-bank lenders.

Someone in the broking fraternity once stated much more eloquently than I that the brokers were necessary to keep the banks honest and competitive. This is a very important point to consider as it was largely due to the success of our industry that has kept the margin costs of home loans at amongst the lowest on record during the past decade.

Strongly supporting this view is the fact that the broader community has largely endorsed the importance of our role in maintaining this position.

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Like most people who work in the mortgage broking industry, I believe that regulation is essential to ensure high standards of service to borrowers and to provide a mechanism to remove from the industry any operator who is incompetent or dishonest.

I support and recommend an effective and efficient regulatory regime that requires brokers to:

- be registered;
- have appropriate qualifications (such as a Certificate IV in Financial Services in Finance/Mortgage Broking) or equivalent; and/or demonstrate experience supported by appropriate referees that are able to verify integrity and expertise.
- enter a written contract to act on behalf of the borrower, specifying parameters for the type of loan sought and setting out the broker's remuneration;
- hold adequate professional indemnity insurance; and
- be a member of an external dispute resolution scheme to give borrowers access to an inexpensive and efficient mechanism for resolving complaints.

Mortgage lending is a highly competitive industry with many brokers operating across State boundaries. Even small regulatory differences between States interfere with the efficient delivery of mortgage finance and increase costs to borrowers. For this reason I also wholeheartedly support the regulation of mortgage broking being a Federal Government responsibility.

It is critical however that mortgage broking regulation does not add unnecessarily to costs as that would reduce the competitiveness of lending arranged by brokers which in turn would present opportunity for the banks and non-bank lenders either, to increase their margins on direct lending, or perhaps undermine the independence of the broking industry.

Please feel free to contact me directly should you wish to seek further clarification to any of the matters raised in this correspondence.

Yours faithfully,



JON MUIR,
PROPRIETOR,
BELTINA PTY LTD