

30 January 2009

Mr John Hawkins
The Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Hawkins

SUBMISSION TO SENATE INQUIRY INTO ASPECTS OF BANK MERGERS

I am writing in response to your letter of 2 December 2008 inviting Mr Ralph Norris, the CEO and Managing Director of the Commonwealth Bank of Australia ("the Group") to make a submission to the Senate Inquiry into aspects of bank mergers.

While the Inquiry's Terms of Reference specifically refers to the Westpac Banking Corporation and St George Bank Limited merger, this submission comments on this Group's recent acquisition of Bank of Western Australia Ltd (BankWest) and St Andrew's Australia Pty Ltd (St Andrew's).

As you may be aware, the Treasurer approved on 18 December 2008 the Group's acquisition of BankWest following detailed assessments by the Australian Competition and Consumer Commission (ACCC), the Australian Prudential Regulation Authority and the Treasury.

The strategic rationale for the BankWest acquisition is that it:

- builds on the Group's commitment to being Australia's leading financial services organisation in the fast growing Western Australian market;
- provides opportunities to enhance the Group's reputation as a leader in product innovation and customer service by further developing existing relationships with nearly 11 million Australians; and
- creates a wider pool of talented and experienced people to complement the Group's vision of excelling in customer service.

In determining the likely competition impact of this acquisition, the ACCC concluded in its *Public Competition Assessment* (p. 1) that "**the proposed acquisition would not be likely to have the effect of substantially lessening competition in any relevant market**, in contravention of section 50 of the *Trade Practices Act 1974* (the Act)". [emphasis added]

In reaching this conclusion, the ACCC's merger assessment process compared the likely future state of competition if the transaction proceeded (the 'factual'

position) to the likely future state of competition if the transaction did not proceed (the 'counterfactual' position). While the ACCC noted that BankWest had been a 'vigorous and effective competitor' to date, the ACCC received compelling evidence from a range of parties to suggest that BankWest would no longer be in a position to continue to compete in the same manner under the counterfactual.

The ACCC concluded that in the face of the global financial crisis and the financial situation of BankWest's UK parent company, HBOS plc, BankWest's operating model would be significantly scaled back given the parent company's reduced risk appetite. Under these circumstances, the BankWest business would no longer continue to grow and competitive pricing would cease. The ACCC noted that the RBA and APRA also indicated that they did not consider that BankWest would be in a position to provide strong and sustainable competition going forward.

As part of the Treasurer's approval of the acquisition, the Group is required to meet a number of conditions that support the best possible outcomes for both customers and employees of the Group and BankWest. A copy of the conditions set by the Treasurer is attached to this submission.

Importantly, the acquisition of BankWest by the Group has meant that both of these entities have been bought back from foreign owners and are now under Australian ownership and control.

Moreover, the Group is committed to maintaining and growing the BankWest brand and operating both BankWest and Commonwealth Bank branches in Western Australia for the transition period, even where branch presence of the two banks overlap. These measures will support ongoing employment opportunities for BankWest staff.

Where operational changes are required, the Group is committed to assistance measures for staff affected by the acquisition including maximising internal redeployment opportunities, providing specialist resources to assist staff and ensuring that staff are supported with external job placement and having timely access to their full entitlements where employee redundancies occur.

The Group has also moved to ensure that our current pricing structure does not disadvantage Western Australian consumers by removing fees for the Group's customers using BankWest ATMs, and vice versa. Importantly, the Group and BankWest will continue to face significant competition ensuring that consumer choice is not curtailed.

Physical branch presence of the BankWest and Commonwealth Bank brands will continue to operate during the integration process. In addition, competitive pressures exerted by other banks in local markets will exist in almost all areas where there is a Commonwealth Bank/BankWest branch in Western Australia. It

is significant to note that Treasury's view expressed to the House of Representatives Inquiry into competition in the banking sector confirmed that the sector is contestable with banking customers being offered a wide range of providers, services and products.

In respect to off-shoring services, the Group retains all customer information on-shore and has a strict privacy code in place to protect the integrity of that information. The Group does not off-shore any of its Australian processing or call centre operations, maintaining a dedicated and efficient workforce in Australia to undertake these duties.

In summary, the Group believes that its acquisition of BankWest/St Andrew's during turbulent times in the financial markets has been a positive outcome for BankWest's customers, staff and also for shareholders of the wider Group.

I trust this information will be of assistance to the Inquiry.

Yours sincerely

A handwritten signature in black ink, reading "John McLenaghan". The signature is written in a cursive, flowing style with a large initial 'J' and 'M'.

John McLenaghan
Head of Government and Industry Affairs

THE HON WAYNE SWAN, MEDIA RELEASE

PROPOSED ACQUISITION OF BANK OF WESTERN AUSTRALIA AND ST ANDREW'S BY THE COMMONWEALTH BANK OF AUSTRALIA

Today I am announcing approval, with conditions, of the proposed acquisition of the Bank of Western Australia (BankWest) and St. Andrew's by the Commonwealth Bank of Australia, in accordance with the *Financial Sector (Shareholdings) Act 1998*.

I have taken this decision after a comprehensive assessment of its impact on the national interest, with conditions that support a strong and competitive Australian banking system.

These conditions will also ensure the best possible outcomes for both customers and employees of CBA and BankWest. In particular, CBA is required to maintain and grow the BankWest brand as well as provide support for staff affected by the acquisition.

CBA is required to maintain BankWest's head office and core functions in Western Australia, and CBA and BankWest branches and business centres in Western Australia are not permitted to close as a consequence of the acquisition.

Importantly, CBA is also required to remove fees for CBA customers using BankWest ATMs, and vice versa, from 3 March 2009.

In addition to maintaining a strong and competitive banking system, and protecting the interests of customers and employees, this decision takes into account a range of other important considerations including prudential requirements, economic efficiency and community banking needs.

The decision also takes account of the detailed assessments of the Australian Competition and Consumer Commission, the Australian Prudential Regulation Authority and the Treasury.

The proposed acquisition of BankWest by CBA removes uncertainty over the future of BankWest and has helped instil more confidence in the Australian financial system.

The merged entity will have a larger balance sheet and stronger capital position, as well as broader access to funding markets leaving it better placed to withstand further challenges from the global financial crisis.

The BankWest brand will also benefit from CBA's lower funding costs, helping it to offer lower interest rates on loans.

CANBERRA
18 December 2008

ATTACHMENT A

CONDITIONS ATTACHED TO APPROVAL UNDER THE FINANCIAL SECTOR (SHAREHOLDINGS) ACT 1998 OF THE PROPOSED ACQUISITION OF THE BANK OF WESTERN AUSTRALIA BY THE COMMONWEALTH BANK OF AUSTRALIA

The conditions to which this approval is subject are that:

For a period of at least three years after the date of acquisition:

1. CBA will maintain and grow the BankWest brand;
2. foreign ATM fees for CBA customers using BankWest ATMs and vice versa will be removed from 3 March 2009;

In addition, for the period of integration under the acquisition process:

3. CBA will maintain BankWest's head office, Managing Director and core functions in Western Australia and in accordance with the Bank of Western Australia Act 1995;
4. CBA and BankWest branches and business centres in Western Australia will not close as a consequence of the acquisition;
5. CBA will maximise internal redeployment opportunities available for affected staff, support external job placement where employee redundancies occur, and ensure that staff affected by the acquisition have timely access to their full entitlements under CBA or BankWest (as applicable) retrenchment arrangements;
6. CBA will work through the implications for employees as quickly and sensitively as possible, in consultation with employees, the Finance Sector Union and other affected stakeholders; and
7. CBA will provide specialist resources to assist staff affected by the acquisition.

Force Majeure

The Commonwealth Bank of Australia (CBA) will not be liable for any failure to perform any obligation imposed by these conditions if the failure is due to Force Majeure.

If CBA is by reason of Force Majeure unable to perform an obligation under these conditions, CBA will, as soon as practicable and in any event within 30 days, notify the Treasurer, specifying:

- a. the cause and extent of non-performance;
- b. the date of commencement of Force Majeure;
- c. the means proposed to be adopted to remedy or abate the Force Majeure;

and will use all reasonable diligence and employ all reasonable means to remedy or abate the Force Majeure as expeditiously as possible.

Force Majeure means:

- a. any act of God;
- b. war, revolution, or any other unlawful act against public order or authority;
- c. an industrial dispute; or
- d. a governmental restraint.

CBA will give written notice to the Treasurer of the following matters as soon as practicable and in any event within 30 days after the relevant occurrence:

- a. the effective date; and
- b. the commencement and termination or abatement of the Force Majeure.