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Sam O'Connor
Contact Officer
Australian Competition and Consumer Commission (ACCC)
Ngunnawal
23 Marcus Clarke Street
Canberra ACT 2601
Via the ACCC Submissions Web Form relating to Commonwealth
Bank of Australia and Ors

22 May 2023

Dear Sam

Deloitte response to ACCC consultation on the application for authorisation of the Aggregator Assurance Program

Please find enclosed the Deloitte submission in response to the ACCC consultation on the application for authorisation of the Aggregator Assurance Program. Deloitte's submission has been primarily informed by our experience in performing comparable independent reviews of aggregator policies and controls.

Deloitte has provided our perspectives in relation to the Aggregator Assurance Program in the attached submission. We have also shared, where relevant, key considerations for the ACCC and the Operating Committee in establishing a successful Aggregator Assurance Program.

We note that the ACCC's final determination is planned for September/October 2023. To support the ACCC's final determination, Deloitte welcomes the opportunity to provide feedback based on our experience in this area and discussions with industry participants, both lenders and aggregators.

Yours sincerely,

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1 Response to Consultation

We welcome the opportunity to respond and provide feedback on the application for authorisation from the Commonwealth Bank of Australia, Westpac Banking Corporation, Australia and New Zealand Banking Group Limited, National Australia Bank Limited and Macquarie Bank Limited (**the Applicants**). We understand that the Applicants are seeking authorisation from the ACCC to make and give effect to agreements and arrangements to establish a voluntary industry-wide program for participating mortgage lenders to jointly procure assurance reviews of the compliance systems and standards of participating mortgage aggregators (**the Aggregator Assurance Program**).

1.1 Response to questions posed in the ACCC's consultation on the application for authorisation of the Aggregator Assurance Program

Based on our experience within the industry and having performed an in-depth Aggregator Review Program on behalf of one of the Applicants during 2021 and 2022, we have set out our views and response relating to the application below.

Consideration	Deloitte Response and learnings from our Aggregator Review experience
Likely public benefits	We agree with the public benefits outlined in the Aggregator Assurance Program application for authorisation to the ACCC. In addition to these benefits, we believe there are other benefits as a result from the proposed conduct to all parties, such as lenders, aggregators, Assurance Service Providers and consumers. Based on our previous experience in working with the aggregators and the Applicants, we observed that the multiple reviews taking place simultaneously can cause fatigue and business disruption given the significant time investment required from aggregators. Given the burden of the reviews largely falls onto senior compliance and risk personnel, there is also the risk that the duplication of effort related to the performance of multiple reviews erodes the benefits of the undertaking of the review and the feedback on the business' controls and risk management processes. Through one centralised review on behalf of the Applicants (or two Assurance Service Providers performing the review over a split number of aggregators) and other mortgage lenders that may opt in to join the program (**Opt-In Lenders**), aggregators will save a significant amount of time and cost and it will be less disruptive to their business. Based on our learnings as an Assurance Service Provider, other likely public benefits are as follows: 1. We observed that the multiple simultaneous reviews and slight variations in the approach by Applicants and those carrying out the assurance reviews resulted in frustration with the process. An agreed upon, standard assurance review, will drive efficiency and standardisation across the industry and will also yield better participation and investment from aggregators based on common agreement from all participants on the Assurance Program requirements. 2. We believe it would be beneficial for an Assurance Service Provider and aggregators to engage with one entity, being the Aggregator Assurance Program Operating Committee (**Operating Committee**), which will facilitate more efficient communication and engagement as opposed to liaising with multiple parties. Whilst the voices of multiple banks will exist in the Operating Committee, one contracting entity and one approach to coordination and scheduling of reviews will drive efficiencies. 3. We believe the Aggregator Assurance Program would also benefit other smaller lenders within the industry. In our experience, we have observed that smaller lenders may not have the capacity or in-house skillset to perform these types of reviews across aggregators, typically utilising remote compliance or monitoring functions to assess brokers and aggregators. We believe by centralising the Aggregator Assurance Program and creating a seamless opt-in process for Opt-in Lenders, this will benefit these smaller lenders in the industry through consistent and robust aggregator and mortgage broker monitoring and compliance. 4. Due to the testing criteria of the Aggregator Assurance Program being agreed upon by all of the applicants (major lenders), regulators and other stakeholders can derive greater comfort

Consideration	Deloitte Response and learnings from our Aggregator Review experience
	from the reporting with regards to the compliance and governance of aggregators. 5. All participating lenders will have access to the same insights and can agree on a standardised approach to deal with the shortcomings of aggregators and major thematics across the industry. This should enable the industry, including key industry bodies such as the Mortgage and Finance Association of Australia (**MFAA**) and Finance Brokers Association of Australia (**FBAA**), to better align and focus on the uplift that is required. 6. Under the current structure, oversight of rectification of findings from assurance reviews has not been as structured as the proposed approach under the application. We are also aware that given the aggregators receive multiple findings across many different reviews, there is less impetus behind the effective closure of identified issues. Aggregators are more likely to implement the better recommended practices, knowing that most lenders require and agree on the recommended uplifts and there will be a structured approach to the review of the issue rectification.
Effects on Competition	From an Assurance Service Provider perspective, we believe the application of a consistent assessment methodology across all aggregators, and the reduction of the burden presented by multiple reviews being performed, should promote better competition amongst aggregators through the industry-wide focus on strengthening compliance and efficiency in operations, which in turn promotes better consumer outcomes as a result. We note that this perspective shared is not based on a thorough analysis of competition impacts across all components of the industry, but from the perspective of an Assurance Service Provider on the basis that the use of the outcomes of the review remains substantially the same as the current reviews undertaken by individual lenders.
Any other Public Detriment	We have no additional comments to the matters raised in the public detriments section of the Aggregator Assurance Program application for authorisation to the ACCC.

1.2 Other key considerations in relation to the execution of the Aggregator Assurance Program

There are additional matters that should be considered in addition to the factors outlined above. These factors have been identified through the work that we have done with our clients within the industry as an Assurance Service Provider. These matters include:

1. Requirements of Prudential Standard CPS 230 Operational Risk Management (**CPS 230**). CPS 230 requires APRA-regulated entities to monitor and report to senior management on material service provider arrangements, including their performance, effectiveness of controls to manage the risks associated with the use of the service provider and compliance of both parties with the service provider agreement. CPS 230 outlines examples of material service providers, of which mortgage brokerage and credit assessments are included. Lenders who perform less rigorous work and oversight now, under CPS 230 will likely need to increase monitoring and testing of Aggregators, exacerbating the current problem. For that reason, we support that the Operating Committee will reasonably provide access to the outcomes of the reviews to other lenders who seek to participate.
2. In context of CPS 230 there will be many other examples where there are common material service providers for multiple lenders or whole industries akin to Aggregators and mortgage brokerages. This may not be the only model adopted to drive efficiency in these reviews across industry, but it is an important first step and model that may be considered for adoption more broadly to meet expanded risk management requirements and public expectations.
3. Through our experience as an Assurance Service Provider for a lender utilising a similar scope and approach as the Aggregator Assurance Program scope, the assessment plan can be interpreted as prescriptive rather than principles based. Under such a model, the Operating Committee should consider the nature and severity of the issues and findings identified. Additionally, our experience tells us that multiple lenders have different ways of recording and reporting risk related findings. Consideration should be given to the methodology used to classify and categorise identified issues and findings within the report that will be most beneficial to the Operating Committee and other lenders who will gain access to the report.

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