

Gavin Jones  
Director  
Competition Exemptions,  
Australian Competition & Consumer Commission  
Lonsdale Street Melbourne VIC

22 January 2024

By email: [exemptions@accc.gov.au](mailto:exemptions@accc.gov.au)

Dear Mr Jones

**DRAFT DETERMINATION ON APPLICATION FOR AUTHORISATION AA1000640 –  
COMMONWEALTH BANK AND ORS INTERESTED PARTY CONSULTATION (THE  
APPLICATION)**

The Mortgage & Finance Association of Australia (**MFAA**) refers to the ACCC's letter dated 18 December 2023 to Interested Parties with respect to the Application submitted by the Commonwealth Bank, Westpac Banking Corporation, Australian and New Zealand Banking Group Limited, National Australia Bank Limited and Macquarie Bank Limited (**the Applicants**) regarding the establishment of a voluntary program for mortgage lenders to jointly procure assurance reviews of the compliance systems and standards of participating mortgage aggregators (**Aggregator Assurance Program**).

On 17 April 2023, the Applicants applied to the ACCC seeking authorisation for the Aggregator Assurance Program. On 1 May 2023, the ACCC invited interested parties to make submissions in response to the Application. In response to the ACCC's invitation, on 22 May 2023, the MFAA made a submission in support of the Application.

On 18 September 2023, the ACCC issued a draft determination proposing to deny authorisation and invited interested parties to make submissions in response to the ACCC's draft determination (**the Draft Determination**). On 27 October 2023, the MFAA made a submission in response to the ACCC's invitation, responding to the ACCC's concerns in the Draft Determination and reiterating our view that:

- there is a strong public benefit to the implementation of the Program in that cost and resource efficiencies to aggregators resulting from the Program will be redeployed by them to supporting small broking businesses for the benefit of consumers and thus enhancing the competition in the home loan market,
- the regulatory costs for smaller participating lenders from current and future assurance activities will be reduced, enhancing the competitive position of these lenders, and
- the program will allow greater participation in assurance activities for a larger number of lenders than currently undertake assurance activities on aggregators, and that can only increase the quality of assurance on aggregators than is currently present.

On 13 December 2023, the Applicants provided a submission in response to the Draft Determination. The Applicants' submission included details of modifications to the Aggregator Assurance Program

that the Applicants are proposing to make to facilitate greater participation by smaller lenders into the Program (**the Response**).

The MFAA would now like to make a submission in relation to the Applicants' Response.

The MFAA considers that the significant benefits of the Aggregator Assurance Program as detailed in its 27 October 2023 submission and summarised above would apply with the Applicants' proposed modifications detailed in their Response. Accordingly, the MFAA does not propose to reiterate all the points that it has made in our previous submissions, but to address two of the proposed modifications to the Aggregator Assurance Program within the Response, these being:

- the proposed revised fee structure, and
- the expansion of participation in the Operating Committee (by smaller lenders).

### **Proposed revised fee structure**

We understand that the proposed revised fee structure is in essence a two-tiered model and that non-applicant (i.e. smaller) lenders will pay an equal share of 50% of the cost capped at a fixed amount of \$5,000 per lender per review.

In our previous submission we noted that regulatory requirements are such that there continues to be an expectation that lenders, large or small to have oversight (in the form of assurance) over their material service providers. We consider that the associated costs of these assurance requirements for smaller lenders in the absence of the Aggregator Assurance Program would likely far outweigh the proposed fee of \$5,000 per lender per review. We understand that several smaller lenders propose to address material service provider oversight requirements through the Aggregator Assurance Program. Therefore, they will benefit from the associated regulatory cost savings (which savings we consider will alleviate the regulatory cost burden and improve the competitive position of these lenders).

We therefore confirm that we are supportive of the proposed revised fee structure and our smaller lender members that we have consulted with are also supportive of the revised fee structure.

### **Operating Committee participation**

In their Response, the Applicants propose to modify the Aggregator Assurance Program governance model by adding two representatives on the Operating Committee from smaller lenders. The Response noted that the MFAA indicated that we were willing to nominate a representative (or representatives) from our membership to the Operating Committee.

The MFAA confirms our undertaking to the Applicants that we are willing to nominate a representative (or representatives) from our membership base to the Operating Committee and will seek nominations through our National Lender Forum.

As noted in our previous submissions, the MFAA's governance model includes its National Lender Forum, a forum comprising fourteen lender members from major banks, mid-tier banks (including mutuals) and non-bank lenders which distribute their products through the broker channel.

In the MFAA's view, the proposed modification to allow for two smaller lender representatives on the Operating Committee will assist in promoting, and addresses the ACCC's concerns around, participation of smaller lenders in the Aggregator Assurance Program.

## Conclusion

The MFAA extends its thanks to the ACCC for the opportunity to contribute to this consultation. If you require further information, please do not hesitate to contact me at [REDACTED] or Naveen Ahluwalia at [REDACTED].

Yours sincerely

[REDACTED]

Anja Pannek  
Chief Executive Officer  
Mortgage & Finance Association of Australia