

“Northern Exposure”

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There has been a lot of attention on financial literacy in recent years. The Commonwealth Government has established a Financial Literacy Foundation and that Foundation will shortly be undertaking a national awareness-raising advertising campaign. Banks have been extremely active in these developments and have provided a variety of responses, adding breadth and depth to the discussion.

For those working directly with consumers, there are many things that are positive about the focus on financial literacy. Improving skills, capacity and understanding of financial issues across the community can only be a positive thing. As one who works in an agency that provides services to low income and vulnerable consumers however, there is a genuine fear that a focus on financial literacy without appropriate attention to structural exclusion is something of a hollow exercise. It will be important therefore to ensure that the campaign does not only encourage the building of skills amongst those who have assured access to financial services markets. Attention must also be paid to the needs of those who do not have that assured market access, or on safe and fair terms.

In the United Kingdom there has been a similar commitment to building financial skills and capacity, but for a longer period of time and with an impressive array of multi-layered responses. Significantly, a central part of the public language and policy focus in the UK has been on generating greater financial *inclusion*. This difference in approaches is a topic all of its own – but not the one that I want to discuss today...

I was recently reviewing some evidence presented to the House of Commons Treasury Committee inquiring into Financial Inclusion and came across the oral presentation of Mr Gerard Lemos and Mr Seymour Fortescue². Messrs Lemos and Fortescue are respectively the Chairman and Chief Executive Officer of the UK Banking Code Standards Board. The line of questioning that the gentlemen responded to and the nature of their responses provided fascinating confirmation that many of the consumer banking issues of the day that occupy the minds of our colleagues in the Northern Hemisphere, bear a striking resemblance to those we grapple with here as

¹ The views expressed in this paper are not intended to be read as opinions of the CCMC. They are reproduced in this format however to encourage discussion, debate and development of further writing on the Australian Code of Banking Practice.

² An uncorrected transcript of this evidence is available from the UK Treasury Committee's web-site www.parliament.uk/parliamentary_committees/treasury_committee.cfm
The reference to this particular transcript is HC 848-iv

well. With a Code and Compliance Monitoring process in the UK that is somewhat more mature than the equivalent in Australia, there are also potential lessons to be learned about what might be around the corner. I would like to explore briefly two of those common areas of interest today:

- the availability of and access to affordable transaction accounts for low income consumers and
- reasonable default fees and charges.

Affordable transaction accounts:

The principle that low income consumers should have reliable access to appropriate, affordable transaction accounts has been a central part of community and consumer lobbying on banking issues for a long time. It is of no particular surprise then that both the UK Banking Code and the Australian Code of Banking Practice make direct reference to affordable transaction services, via the now commonly accepted term *basic bank account*. The terminology should encompass both utility and affordability, but neither of the Codes tackles product structure or design. Arguably they cannot because to do so would breach competition laws. There was an attempt to navigate the Australian competition framework to produce a benchmark basic bank account several years ago – but that process failed to deliver an outcome and has not been revisited³.

Instead, the Codes tackle access issues but in quite different ways. The UK Code places a positive onus on the bank to assess the customer's needs and, if those needs are suited to a basic bank account, to offer one to the customer, if the bank has such a product.⁴ The obligation in the Australian Code is couched in less direct terms:

*If you tell us that you are a low income earner or a disadvantaged person (regardless of whether you are an existing or prospective customer but not if you are a small business), we will provide you with details of accounts which may be suitable to your needs. We will also do this if you ask for this information or if, in the course of dealing personally with you, we become aware that you are in receipt of Centrelink or like benefits.*⁵

Neither of the Codes require signatories to develop and deliver basic bank account products.

Setting aside for a moment whether market forces or corporate social responsibility factors are sufficient drivers alone to ensure enough basic bank account products exist, whether genuine and reliable access exists in the UK is clearly a big concern if the Treasury Committee transcript is any indication. There are some pretty fundamental hurdles in the UK that may not be problems in Australia, for example:

- very long delays in opening accounts, in comparison to what is largely a same day process in Australia once identification hurdles are navigated and

³ The Australian Bankers' Association and 10 member banks applied to the ACCC for Authorisation of a Basic Bank Account (Authorisation A 30214). The application was withdrawn on 20 December 2002.

⁴ The Banking Code (UK) March 2005, clause 3.1

⁵ Code of Banking Practice (Aust) August 2003 (and as amended), clause 14

- an apparent practice of checking credit reference information in the UK, where no such checking would be required for a savings account in Australia. Australians are also much more likely per capita to have bank accounts than UK consumers⁶, suggesting that absolute exclusion at a fundamental level is less of a problem here.

That said, I do not think we can conclude that everyone who wants or needs a basic bank account in Australia has one. Similarly, I do not think we can assume that information about what basic bank accounts exist in Australia is readily available to the consumers who need them.

In the UK this has been an area of great activity and interest for the Banking Code Standards Board. It would be odd if it were not an area that generated attention in Australia, given how little we know about the success or otherwise of connecting low income and disadvantaged consumers to affordable, appropriate transaction accounts.

Reasonable default fees and charges:

This is an altogether trickier subject and neither the UK nor the Australian Codes make direct reference to default fees and charges. How and when default fees are levied may raise Code implications in a variety of ways, most notably in circumstances where a consumer is experiencing financial difficulty.

Returning again to the evidence transcript from the UK Treasury Committee's Financial Inclusion Inquiry, there are significant areas of overlap in the public criticisms made of banks and their approach to penalty fees on either side of the planet. Specifically, the criticisms note:

- the relationship or lack thereof between fees and actual costs and
- the impact of default fees on low income and disadvantaged consumers.

One of the Committee members, Mr Brooks Newmark, posed the following question to the CEO of the Banking Code Standards Board:

*Last year you said that regarding penalty charges on credit cards, "If I were still a poacher I'd have a real job defending these charges. They do not appear to be related to the costs, they frequently hit those least able to pay them and they generate great resentment". What is your view of default charges payable by users of basic bank accounts when there is insufficient money to pay standing orders and direct debits?*⁷

A transcript (proof copy or otherwise) can never capture the full sensory experience. I somehow imagine however that Mr Fortescue took a full and audible intake of breath before responding to this question. Noting that his quoted comments were made to *The Guardian* in a personal capacity and that the role of the Banking Code Standards Board and the Code was not to set prices, Mr Fortescue suggested that the solution to

⁶ AC Nielson and ANZ Banking Group Limited, *Adult Financial Literacy, Personal Debt and Financial Difficulty in Australia (Summary Report)*, Melbourne 2005, page 3. (A survey of 3500 Australian consumers indicated 97% had an everyday bank account.)

⁷ UK Treasury Committee, uncorrected proof transcript, 14 March 2006 question 370.

the problem might be found in better disclosure. If that were the extent of the observation, I doubt there would be anyone in this room or indeed any consumer advocate in Australia, who would expect the tension on default fees and charges to be solved by more or better disclosure. There was however an interesting extra layer to the suggestion. It involved an amendment to the Banking Code that would extend the current requirement for 14 days' pre-notification of interest or charges being taken from current or savings accounts⁸, to include penalty charges. Whilst pre-notification would not solve arguments about quantum, it certainly would provide a consumer with a warning that does not currently exist and an opportunity to dispute charges before their application.

Either way the issue is likely to only get bigger in Australia. One likely impact of the Welfare to Work reforms post 1 July 2006 is for more low income consumers to face the prospect of payments failing and accounts being overdrawn as a result of benefit suspension. It is an issue that the ABA has taken up with Government – but the practical impact will challenge the application of bank hardship policies in the months ahead.

Conclusion:

In concluding, there is another issue I would like to mention briefly. It is absolutely relevant to the preceding discussion of big-ticket issues for consumers of banking services. 2006 was to have been the year for the next major review of the Code of Banking Practice. The Code itself requires 3 yearly reviews, with a promise to that effect enshrined in the Code. The review will not however commence until 2007.

Delay is understandable. The last review that delivered the current version of the Code was not an entirely easy or quick process. There are any number of reasons why that was the case – key amongst them no doubt being the lack of appropriate updating and review of the preceding and first Code of Banking Practice in this country, after its release in November 1993.

The current Code also took some time to “catch on”. The commencement date of August 2003 was something of an anticlimax. The party was thrown but the guests were a little late arriving. Only 6 banks were Code compliant and signed on in August 2003. Indeed, only 14 of the Banks currently trading in Australia are signatories now. Those 14 signatory banks, many if not all of which are represented at this forum today, cover a significant even overwhelming proportion of the consumer and small business banking markets in this country. By why is the coverage not universal? And why is there more than a little indifference on the part of the non-signatories, many of which did adopt the 1993 Code to get their acts together?

At the first Bank Forum conducted by the Code Compliance Monitoring Committee in 2005, I noted that as well as remaining an active consumer advocate, this particular role as a Compliance Committee member had also made me an advocate for the Code. That dual advocacy role, in the context of the Code of Banking Practice, leads me to the two key observations that I would like to leave you with:

⁸ The Banking Code (UK) March 2005, clause 5.5

- if it is to continue to grow as a central plank in the delivery of quality banking services in Australia, the Code requires ongoing attention and commitment and
- each and every bank that remains outside of the Code of Banking Practice undermines the commitments made individually and collectively by the banks that have signed on.

This room is populated by the converted. Convert others of your colleagues. The banking industry in Australia has every right to point to its commitment to a quality Code process as a positive - especially in comparison to the efforts of other industry groups in financial services and other markets. There is a way to go however before the commitment is industry wide and the quality improvement process is entirely natural and constantly evolving. As has been noted previously, a stagnation of the Code process is unlikely to signal a disappearance of obligations of the type that appear in the Code, rather to their iteration in another form that perhaps removes voluntary from the sign-on step⁹.

⁹ Similar comments were made by the Chair of the CCMC, Mr Tony Blunn AO, at the first Bank Forum conducted by the Committee on 30 August 2005.