20 March 2018

By online lodgement
Mr Peter Harris AO
Presiding Commissioner
Productivity Commission
4 National Circuit
Barton ACT 2600, Australia

Dear Presiding Commissioner

Submission - Inquiry into Competition in Australia's Financial System

1 Thank you for the opportunity to comment on the draft report of the Productivity Commission's Inquiry into Competition in the Australian Financial System (**Inquiry**).

2 Smartline Personal Mortgage Advisers (**Smartline**) has a significant interest in the health and competitiveness of the residential mortgage industry, and Australia's financial system more broadly. We therefore appreciate the opportunity to lodge a submission, and we hope it assists the Commission.

3 The structure of our submission is set out below. If it would assist the Commission for Smartline to elaborate on any aspect of this submission, please let us know.

1 Smartline's business

3 Smartline is a non-lender owned organisation. We begin with a few observations about how Smartline's business works.

Smartline's services

4 Smartline is a franchised mortgage broking business. At present, Smartline has 312 franchisees. These are based in all states and territories, with a particular concentration in New South Wales, Victoria and Western Australia.

5 Smartline's franchisees, and their mortgage brokers, are credit professionals. They endeavour to assist their customers to navigate the world of home finance, and to obtain loans from Smartline's lenders.

6 The relationship between a Smartline broker and a customer often begins at the time the customer is ready to borrow, but in many cases it begins much earlier than that. The broker might meet with the customer several times before he or she is in a position to purchase a home, helping the customer to formulate a budget and a plan for saving a deposit.

7 Once a customer is ready for a loan, a Smartline broker will undertake a detailed assessment of their needs and objectives. The broker will typically explain the mortgage process and its different stages, and different lenders and loan products on offer. These are drawn from Smartline's panel of lenders, which currently includes:

(a) the four major banks;

(b) four sub-divisions of the major banks;

(c) ten foreign or smaller banks, including three that are customer-owned;

(d) twelve non-bank lenders; and

(e) the Smartline Select™ white-label product, backed by Advantedge Financial Services Pty Ltd (**Advantedge**), a subsidiary of the National Australia Bank.

8 The broker will also typically discuss the different loan features that are available, such as split loans, fixed-interest periods and offset accounts. Based on the customer's needs, aims, and financial situation, the broker will use Smartline's proprietary software to identify a range of suitable loan products, and will typically advise the customer on appropriate ways to structure their lending. The advice the broker provides is recorded in a written Statement of Mortgage Advice.

9 By providing these services, Smartline's mortgage brokers help their customers to navigate what can be a confusing and difficult process, and to understand the different loan products that are available and their respective features.

10 Once the customer is comfortable with a given lender and loan structure and is ready to apply for the loan, the broker will assemble and submit the customer's application. The broker will assist the customer to collate the necessary information and documents, and will package these up in the particular format required by the chosen lender. The broker will also take steps to verify the customer's financial situation, using the documents provided by the customer and, where appropriate, making inquiries of third parties such as employers. Once the customer's loan is approved, the broker will continue to act as a liaison between the lender and the customer (or their conveyancer) through to settlement.

11 After the loan settles, a Smartline broker will continue to provide services to their customer, primarily through face-to-face reviews on the anniversary of the loan. In these reviews, the broker seeks to assist their customer to adapt to any changing circumstances (such as where the customer wants to reduce the loan balance, or to increase it to undertake renovations), and to identify any opportunities to re-finance on more favourable terms.

12 Since Smartline was founded in 1999, its brokers have helped its customers obtain about 270,000 loans. Smartline's loan book of outstanding loans amounts to about $26 billion.

13 As well as home loans, which form the lion's share of Smartline's business, Smartline brokers also arrange commercial property finance, car finance, and business equipment leases and loans. Smartline also provides insurance referral services, predominantly in respect of life, home and contents insurance.

Smartline's structure and ownership

14 The franchisor within the Smartline business is Smartline Operations Pty Ltd, which is wholly owned by Smartline Home Loans Pty Ltd.

15 In 2017, Smartline Home Loans Pty Ltd was acquired by realestate.com.au Pty Ltd, part of the publicly-listed REA Group (ASX: REA), a multi-national digital advertising company specialising in real property.

16 realestate.com.au Pty Ltd currently owns 80.3% of Smartline's issued share capital. Smartline's minority shareholders hold a put option to sell their remaining stake after three years, at a price dependent on the financial performance of Smartline. If the option is not exercised, REA will acquire the remaining shares after four years.

17 Unlike Smartline's major competitors, no lender holds equity in Smartline.

How Smartline derives revenue

18 As is true of mortgage brokers generally, the vast majority of Smartline's revenue is derived from commissions on loans. The commissions take two forms:

(a) up-front commissions, which are paid to Smartline by the lender when a loan is settled; and

(b) trailing commissions, which are paid to Smartline by the lender monthly over the life of the loan.

19 The amount of these commissions varies slightly from lender to lender. Currently, up-front commissions are calculated at about 0.65% of the loan amount, and trail commissions at about 0.18% of the remaining loan balance. These numbers are broadly consistent across the industry.

20 Smartline passes on a proportion of these commissions to its brokers. This forms the basis of their remuneration.

21 In the past, Smartline also received bonuses from lenders based on the volume of loans sold, which were not passed on to brokers. These bonuses ceased last year.

Smartline's culture and business model

22 Smartline conducts its business in a way that accords with its culture and values. And consonantly with those values, Smartline's business model emphasises long-term gains through organic growth of its customer base, rather than immediate term profits by maximising per-transaction revenue.

23 Smartline's culture is reflected in its ten core values. These are:

We build relationships	We generate our business through strong relationships based on trust, adding value and ongoing communication.
Our clients are our priority	We have no business interests except those of our clients, acting solely on their needs and wants. We earn our clients' trust by delivering advice that's expert, clear and in their interest. We provide our clients service that will exceed their expectations for great service and that will delight and surprise them. We develop long term relationships with our clients that add value to their lives beyond the immediate mortgage deal.
We keep learning	We create an environment of continuous learning. We are always looking for better ways of doing things, whether it's serving our clients, operating our business or adding value to our business partners.
We give back	We give back to the community by giving to those less fortunate than ourselves. We contribute our time and resources to support of the MFAA and the healthy development of our industry.

Care and respect	We communicate with each other openly and frequently. All dealings and communication is done with courtesy and respect. We are fair, transparent and honest in all our dealings.
We have fun	We get together and have fun as a group and enjoy each other's company.
We help each other	We have an accessible, non-hierarchical business with a supportive culture to make it easier for our people to deal with us and for us to care for our people. We help each other be successful and share our knowledge and experience.
One best way	We are a consistent branded business with a consistent approach and processes offering a consistent and premium level of client service and care in every franchise.
Accountability	The success of our business is based on our people's success in building their businesses. We recognise performance and service excellence. We are all accountable to all of our stakeholders. We believe in profitable businesses.
Expert	We are selective about who joins Smartline to protect the reputation of Smartline and our people. All of our Advisers are fully trained, full time mortgage specialists who are knowledgeable and expert in all aspects of mortgage broking.

24 These values shape the day to day conduct of Smartline's business, and are reflected in its recruitment, training, and management structures. We are happy to provide more detail about these if it will assist the Inquiry.

25 Smartline's business model is based on two important notions:

(a) Smartline is successful when its franchisees are successful; and

(b) Smartline's franchisees are successful when their customers are satisfied.

26 Smartline relies on its franchisees' success for its own, because its revenue is principally derived from commissions on the loans its franchisees generate. Smartline makes no profit from signing franchisees: the whole of the fee paid upon signing up as a franchisee is used to partially recover the costs of Smartline's franchisee induction program. Smartline's strategy is therefore one of continual investment in its slowly but steadily growing network of franchisees.

27 Smartline's franchisees in turn depend on their customers' satisfaction for their success, because Smartline's customer base is built by referrals and repeat business. Smartline franchisees develop business by maintaining relationships with their customers: first by satisfying those customers at the time of service, and then by staying in contact after settlement, through follow up calls, regular email communication and annual reviews. The vast majority of Smartline's business comes from existing clients or people referred by them.

28 Customer satisfaction is also crucial to Smartline's success because Smartline insists on transparency with respect to customer feedback. After settlement of their loan, each Smartline customer receives an electronic form seeking feedback on their broker's performance, and a rating out of five stars. Once submitted, their responses are posted to Smartline's website automatically, without editing, within minutes. The responses, and the aggregated ratings, can be viewed by anyone, either in relation to Smartline or collated for each franchise. At the time of writing, Smartline has a rating of 4.95 stars out of five, from more than 24,000 reviews.

29 Smartline's business model therefore *depends upon* the pursuit of good outcomes for customers: not only at the time the loan is approved, but into the future.

30 Against that background, we now turn to particular aspects of the Commission's draft report.

2 Draft recommendation 8.1: Duty of care obligations for lender owned aggregators

31 Draft recommendation 8.1 is as follows:

> **Duty of care obligations for lender-owned aggregators**
> The Australian Securities and Investments Commission should impose a clear legal duty on mortgage aggregators *owned by lenders* to act in the consumer's best interests. Such a duty should be imposed even if these aggregators operate as independent subsidiaries of their parent lender institution, and should also apply to the mortgage brokers operating under them.
>
> (Original emphasis)

32 Even though Smartline is not lender-owned, we have some observations about this suggestion which the Commission may see fit to take into account.

33 The duty to act in another person's best interests is a very high legal standard, which is not found in or imposed on most commercial relationships. It is a duty that more commonly arises in a fiduciary relationship, like that of a trustee to his beneficiary, a lawyer to her client, or a director to her company.

34 Smartline does not believe that it is necessary to introduce this additional duty into the relationship between brokers and their clients – whether lender-owned or not. Brokers already have obligations under existing legislation, which require them to:

(a) act efficiently, honestly and fairly;

(b) manage conflicts of interest;

(c) be competent and properly trained; and

(d) ensure that they do not place their customers into unsuitable loans.

35 It would be overly onerous and impracticable to require brokers – lender-owned or otherwise – to identify and recommend the loan in the "best" interest of any given customer. It is important to remember that there can be several – sometimes many – options which are suitable for a borrower. The broker's job is to lead the borrower to one of these and not into a product that is inappropriate.

36 We endorse and adopt the Combined Industry Forum's definition of a Good Customer Outcome:[1]

> The customer has obtained a loan which is appropriate (in terms of size and structure), is affordable, applied for in a compliant manner and meets the customer's set of objectives at the time of seeking the loan.

3 Information request 8.1: How should new duty of care obligations for lender-owned aggregators be implemented?

37 If a "best interests" duty were to be imposed on lender-owned aggregators and brokers, it should not go beyond that recently imposed on financial advisers; and we submit that it should contain an equivalent of the "safe-harbour" provisions applicable to financial advisers, which set out definite steps which, if taken, will fulfil the "best interests" duty.

38 In the case of those advisers whose role is most similar to lender-owned brokers – those who work for Authorised Deposit-taking Institutions (**ADIs**) and provide advice on basic banking products, general insurance products, and consumer credit insurance – the "safe-harbour" steps are:

> (a) identif[ying] the objectives, financial situation and needs of the client that [are] disclosed to the provider by the client through instructions;
>
> (b) identif[ying]:
>
> (i) the subject matter of the advice that [is] sought by the client (whether explicitly or implicitly); and
>
> (ii) the objectives, financial situation and needs of the client that would reasonably be considered as relevant to advice sought on that subject matter (the client's relevant circumstances); [and]
>
> (c) where it [is] reasonably apparent that information relating to the client's relevant circumstances [is] incomplete or inaccurate, [making] reasonable inquiries to obtain complete and accurate information …[2]

[1] Combined Industry Forum, *Improving Customer Outcomes: The Combined Industry Forum response to ASIC Report 516: Review of mortgage broker remuneration* <https://www.mfaa.com.au/sites/default/files/users/user130/CIF_Report_Submitted_281117_0.pdf>.

[2] See *Corporations Act 2001* (Cth), section 961B(1)-(3).

39 It is worth noting that, when the Future Of Financial Advice (**FOFA**) legislation was first introduced, there was no effective safe-harbour, because the "catch-all" provision in section 961B(2)(g) of the *Corporations Act 2001* (Cth) applied.[3] The safe harbour for those working for ADIs, mentioned above, was introduced after the legislation had been in operation for several years, and the experience of those applying and working with the provisions had led to concerns about the legal uncertainty created by such an open-ended duty.

40 If a "best interests" duty were to be imposed on lender-owned brokers and aggregators, the most natural home for it would be the existing legislation regulating mortgage aggregators, the *National Consumer Credit Protection Act 2009* (Cth) (**NCCP Act**).

4 What do mortgage brokers cost consumers?

41 On page 221 of the draft report, it is suggested that "brokers are ultimately paid for — lenders must increase interest rates charged to borrowers (to cover this cost), or reduce the interest rates paid to depositors". The evidence said to support this is a report by UBS stating that the cost of commissions increased home loan rates by 16 basis points per year. Smartline was not consulted for the purposes of that report, and we have not seen a copy. However, we suggest that UBS's findings should be approached with caution for two reasons:

(a) *first*, it was apparently based on a wrong interpretation of the data about commissions (see the response of the Mortgage & Finance Association of Australia, at https://www.mfaa.com.au/node/541);

(b) *secondly*, the draft report notes that the UBS data does not take into account the savings arising from the substitution of brokers for branches.

42 This second point is critical. Ultimately, all new loans carry a cost of sale attributable to the distribution channel, and an attributable cost of marketing. As the draft report notes, there is no evidence that the cost of sale through a broker is greater than the cost of sale through any other channel, nor are we aware of any data on the value to lenders of the marketing undertaken by mortgage brokers. Moreover, even if it turns out that brokers *are* a more expensive path to market for lenders with an *existing* branch network, the opposite is known to be true for new and smaller lenders, as the Reserve Bank of Australia (**RBA**) has recognised.[4] Brokers therefore have an important role to play in lowering barriers to entry and decreasing the dominance of the incumbents.

5 Draft recommendation 8.2: Mortgage broker disclosure requirements

43 Draft recommendation 8.2 is as follows:

[3] This in effect required advisers to take all steps that, at the time their advice was provided, would reasonably be regarded as being in the best interests of the client, given the client's circumstances.

[4] See paragraph 56 below.

The Australian Securities and Investments Commission should require that before mortgage brokers recommend loans to consumers, they must have a discussion with consumers about, and provide plain-English documents to consumers on:

- the types of products offered by different lenders (including white-label loans and which lender provides the funding for them) and associated loan features
- the role of mortgage brokers in matching borrowers with home loan providers, including how brokers are limited in their ability to help consumers apply for loans from all lenders because not all lenders are on the aggregator's panel or the broker is not accredited with a particular lender
- how mortgage brokers are paid (including specific information about their payment arrangements)
- any ownership relationships between lenders and the aggregator, and the requirement for brokers to act in consumers' interest where an ownership relationship exists (draft recommendation 8.1).

Specific details regarding the information provided and the way it is presented should be developed through consumer testing to ensure that consumers understand the information, and the effect of these measures should be reviewed after they have been implemented.

44 At least in Smartline's case, much of the information referred to in the draft recommendation is already provided by brokers as a matter of course. For example:

(a) Smartline brokers talk to all of their customers about their role as a broker, and about the types of products offered by different lenders and their different features;

(b) Smartline openly advertises its "panel of lenders", allowing customers to see for themselves which lenders are included;

(c) all promotional material and loan documents for the Smartline Select™ white-label product note that the loan servicer is Advantedge and that the loan is funded under arrangements from NAB; and

(d) the commissions received by Smartline and its brokers are already required by law to be disclosed, in the Credit Guide and Credit Proposal Disclosure Document that must be provided to customers.[5]

45 Smartline would support the development of plain-English documentation that communicates the information in draft recommendation 8.2 in an easily comprehensible way. Nonetheless, care should be taken to avoid significantly adding to the total regulatory burden in the industry, which could particularly harm smaller and lower-margin players. One way this could be done is by ensuring that the documentation is in an easily adaptable standard form, which ensures consistency across the industry and allows different aggregator groups to easily insert the details of their particular arrangements.

[5] Under sections 113 and 121 of the NCCP Act.

6 Information request 8.2: Should consumers pay broker fees for service?

46 Information request 8.2 asks:

> Should consumers pay mortgage brokers directly through fees for service (rather than brokers receiving commissions from lenders)? What is the likely effect on consumers' use of brokers and on home loan providers' ability to source home loans through brokers? What is the likely effect on brokers' incentives to recommend loans to consumers?

47 Smartline's position is that broking should continue to be a service provided at no direct cost to the customer, funded at the lender side.

48 The effects of mortgage broker commissions on customer outcomes were studied exhaustively in ASIC's Review of Mortgage Broker Remuneration. That Review did not find evidence of poor consumer outcomes resulting from the standard up-front and trailing commissions, nor did it recommend their abolition.

49 Indeed, the apprehension of a risk of poor consumer outcomes that is sometimes spoken about appears to be based not on evidence, but on consideration of the "incentive structures" thought to influence brokers. We have some observations to make about that.

50 It is true that not all lenders pay the same commission, and that a broker will theoretically make more money from a loan if it is originated with a lender paying a higher commission (supposedly giving rise to "lender choice conflict"). It is also true that a broker will make more money from a larger loan than a smaller loan (supposedly giving rise to "product choice conflict"). But these "conflicts" do not inform the way that brokers practice. Even setting aside the values, culture and professionalism of brokers and their genuine desire to help their customers, that is so because:

(a) The differences between commissions paid by lenders to "aggregators" are generally small:

(i) In 2017, the up-front commissions paid to Smartline by its top 10 lenders (by total value of loans originated) ranged from 0.5% to 0.7%.[6]

(ii) In the same year, again among Smartline's top 10 lenders:

(A) trail commissions in the first year varied from 0.1% to 0.15% (aside from a single outlier of 0%, which was offset by an increased up-front commission);

(B) trail commissions in the second year were 0.15% for every lender but one (which lender offered 0.1%); and

(C) trail commissions in subsequent years rose to a limit of between 0.2% and 0.3%.

[6] The commission of 0.5% was payable by only one lender, and then only on loans with a loan to valuation ratio (**LVR**) of 80% or more. The next lowest commission was 0.6%.

(b) At least in Smartline's case, brokers are generally not cognisant of those differences in commission when suggesting a loan. The driving factors behind a broker's suggestion are generally the pricing of the product, and service factors, such as the processing time for applications.

(c) In many cases, and certainly in Smartline's case, brokers' loan suggestions are generated by proprietary software, which does not take into account or disclose to the broker the lenders' commissions. Importantly, too, Smartline's white-label loan is not favoured or promoted in any way within the software, and the fees and commissions Smartline receives on it are not displayed.

(d) Lastly, and most importantly, a broker who simply tried to maximise the commission he or she obtained on each loan would not be long in business. As I mentioned above, Smartline brokers rely heavily on repeat and referral customers, and according to the draft report, this is true of the industry generally.[7]

51 Indeed, our own data shows that Smartline brokers' choice of lender bears no relationship to the commissions on offer. In 2017, Smartline's top 10 lenders by loan value accounted for 80.7% of the value of loans written. Of this:

(a) the largest portion (37.8%) was written with lenders paying 0.65% up-front commission and a range of trail commissions;

(b) the next largest portion (18.1%) was written with a lender paying 0.625% up-front commission and a maximum trail of 0.2%;

(c) lenders paying 0.7% up-front commission came in third, at 13.9% of loan value; and

(d) the remainder (10.8%) was written with lenders paying 0.6% or commissions that depended on LVR.

52 Smartline's white-label loan made up only 6.8% of the value of loans written in 2017.

53 For all of those reasons, once the reforms already proposed by the Combined Industry Forum are taken into account,[8] we do not believe that there is any detriment to the consumer in the commission-based remuneration model.

54 To the contrary, and for reasons we have already canvassed in part, the service currently provided by mortgage brokers is highly valued by consumers. The share of home loans originated by brokers is over 55% and increasing,[9] and research by Deloitte shows that broker customers tend to be more satisfied with their

[7] See page 214.
[8] See Box 8.1 of the draft report.
[9] MFAA, *Broker market share rises to a record 55.7% in September quarter* (19 November 2017) <https://www.mfaa.com.au/news/broker-market-share-rises-to-a-record-55.7-percent-in-september-quarter>.

experience than direct to lender customers.[10] As ASIC has acknowledged, brokers are also valued for their knowledge, support and expertise.[11] This is a factor that is particularly important in rural and regional Australia, where banks continue to consolidate branch numbers.[12]

55 As ASIC has also acknowledged, "[b]rokers can play an important role in promoting good consumer outcomes and strong competition in the home loan market".[13] There is plenty of evidence that brokers do have this positive competitive effect. For instance, there is evidence that:

(a) customers of brokers, particularly those on lower incomes and those who have less to borrow, achieve lower interest rates when they use brokers;[14]

(b) brokers provide a low-cost path to market for new and alternative lenders, including online and foreign-subsidiary banks such as ING Direct,[15] and are relied upon by smaller banks;[16] and

(c) brokers help customers choose from a range of lenders and products,[17] in circumstances where one of the most significant impediments to competition in the financial system is customers' tendency to stick with their existing institutions to avoid the hassle and confusion of shopping around.[18]

56 Consistently, the Reserve Bank of Australia submitted to this Inquiry that:

> Increased use of brokers by borrowers has resulted in greater competition among lenders via this loan origination channel. Smaller lenders have made greater use of this distribution channel than the major banks because it is lower cost than a branch network … For borrowers, brokers reduce search costs by efficiently comparing deals across lenders. The introduction of a wider range of mortgage products, partly in response to prudential regulations, has increased the benefits for consumers of using brokers.[19]

57 We are not aware of any evidence measuring the competitive impact of brokers on the market today (ie comparing the state of the market today *with* brokers, to the market today if there were *no* brokers), but it is helpful to reflect on what occurred when brokers were first introduced. As the draft report notes, the initial

[10] Deloitte, *Customer Experiences of Using Mortgage Brokers: Market Research Report prepared for the Mortgage & Finance Association of Australia* (October 2016) <https://www.mfaa.com.au/sites/default/files/About%20Library/MFAA%20and%20Deloitte_Customer%20Experiences%20of%20Using%20Mortgage%20Brokers_October2016.pdf>.
[11] ASIC, *Report No. 516: Review of Mortgage Broker Remuneration* (March 2017), pp 175–6; Deloitte, above n 10.
[12] Joanna Woodburn, 'ANZ and NAB to close their doors in eight more NSW towns in a move union says could be "near death knell"', *ABC News (online)* <http://www.abc.net.au/news/2018-03-06/anz-nab-close-more-regional-bank-branches/9517086>.
[13] ASIC, above n 11, paragraph 20.
[14] See draft report, Figures 8.2 and 8.3.
[15] See draft report page 219.
[16] Regional Banks, *Levelling the Playing Field in Retail Banking: Submission to the Productivity Commission* (22 September 2017), page 63.
[17] See draft report, page 215.
[18] See draft report, Chapter 13.
[19] Reserve Bank of Australia, *Submission to the Productivity Commission Inquiry* (September 2017), pages 23–4.

introduction of mortgage brokers in 1996 led to interest margins falling 200 basis points within two years.[20]

58 While customers, and possibly regulators, too, have become accustomed to this level of competition, care needs to be taken that it is not lost. While much has changed since the 1990s, we know enough about barriers to entry and consumer behaviour today to say that the post-broker world would probably look very much like the pre-broker world. Customers, overwhelmed by the task of going from lender to lender seeking out information, would not look beyond the institutions they already know, trust, and most likely bank with. Smaller players would wither, and new entrants, lacking the branch footprint or brand recognition of the incumbents, would fail to gain a foothold.

59 In Smartline's submission, the abolition of lender-side funding would lead to a decrease, likely significant, in the industry's coverage. Mortgage broking at present is overwhelmingly fee-free,[21] and as the draft report notes, if this were to change, there is good evidence that the use of mortgage brokers would decline dramatically.[22]

60 For all of these reasons, Smartline opposes the imposition of a fee-for-service model.

7 Draft finding 13.1: Mortgage broker commission structures weaken consumer switching

61 Draft finding 13.1 states:

> The payment of trail commissions creates perverse incentives for mortgage brokers by rewarding them for keeping customers in their existing loan. Broker loyalty appears skewed towards the institution, not the customer, and thus likely discourages refinancing.
>
> The inclusion of commission clawbacks in the remuneration structure for mortgage brokers acts as a direct disincentive to consumer switching of home loans.

62 As stated above, the main incentive which motivates brokers in their work is the incentive to achieve good outcomes for their customers. Brokers' incentives cannot be understood simply by adding up the dollars on either side of the ledger in any given transaction.

63 Even if that approach is taken, however, the incentives provided by trail commissions and clawbacks are positive ones:

(a) if the loan is successfully paid down to completion, the broker continues to receive trail;

(b) if the loan falls into arrears, the broker loses their commission; and

20 See page 212.
21 As noted in ASIC's *Review of Mortgage Broker Remuneration*, only a small proportion of brokers charge customers a fee for their services, and even then this is usually where the work is complex or intensive, or commissions are not available. See paragraph 594.
22 At page 228.

(c) if the customer wishes to refinance, the broker's position is essentially neutral – trail on the old loan is replaced by trail on the new loan, and any clawback is offset by the new up-front commission.

64 Appropriately, trail also ceases if there is fraud by the broker.

65 As ASIC found in its Review, trail commissions and clawbacks have an important role to play in incentivising brokers to write high-quality loans that are appropriate for the customer and unlikely to default.[23] Contrarily, where all commissions are paid up front, the "incentive" can exist for mortgage brokers to churn their customers from one loan to the other. As ASIC observed, the lack of trail commissions in the United Kingdom has been associated with a proliferation of short-term (commonly two year) fixed-rate loans.[24]

66 Smartline therefore submits that trail commissions and clawbacks should be retained.

8 Further information

67 We hope this submission will be of assistance to the Inquiry in preparing its final report.

68 If you have any queries about anything contained in this submission, please let me know.

Yours faithfully
Smartline Personal Mortgage Advisers

Andrew Russell

[23] ASIC Report at paragraph 432.
[24] ASIC Report at paragraph 218.