Submission to Productivity commission regarding draft report.

Observations noted in draft report either incorrect or unexplained.

1: Finance Brokers are not required to act in borrower's best interest.

In Western Australia, this was legislated in 2007 in the finance Brokers Control (Code of Conduct) Regulations 2007 – applicable to all Finance Brokers who operate in WA; as an outcome of the Finance Brokers scandals that raised this very issue of who the broker works for way back in 2001. The Commonwealth failed to include this protective requirement in the NCCP legislation, but WA did have it – as well as capped commissions and commission declarations. The WA Finance Brokers Code of Conduct should be modified for inclusion in the NCCP – including commission declarations and commission limits.

https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s39132.html Clause 2.2 definition of principal.

2. Margins by lenders have increased since the GFC.

From 1991 – 2008, Challenger Mortgage Management, previously known as Interstar home loans, built up a $20 Billion loan portfolio by undercutting the banks, forcing the margin over the cash rate down to 2.0%.

http://archive.treasury.gov.au/documents/1399/PDF/Challenger.pdf

In 2008, with the GFC restricting securitisation markets, Challenger increased the margins on the existing loans, allowing the rest of the market to also increase margins.

https://www.asx.com.au/asxpdf/20090216/pdf/31g1z2zdcr5zqg.pdf Page 6 "funding costs locked in at significant margin" and "Net Income increased due to higher margins"

Challenger sold off the marked up income stream for $575 Million in 2009 and the Mortgage Management business (that provided the lower rates) for $385 Million, ending competition at the "competitive" end of the market.

https://www.asx.com.au/asxpdf/20090818/pdf/31k4gr1lfq54t3.pdf

That $575 Million Challenger sold the residual income for – came from Advantedge charging those 80,000 borrowers on an ongoing basis that extra 2.5% on an ongoing basis – still over charging today.

3. Mortgage Brokers fail to improve competition.

With most aggregators now owned by the banks, the focus is on profits for the banks rather than providing true comparison. Take NAB for example. It owns Plan, Choice and FAST aggregation yet has not enhance the comparison capability of those aggregators in the nine years it has owned them. If anything, it has done the opposite, using its knowledge of the comparison process to inject its own white label products into 85% of brokers.

https://www.brokernews.com.au/files/file/Australian%20Broker/BN%20Advantedge_Whitepaper_Final30June.pdf

That white label product is the same white label product from above, now being misused to skew brokers into putting customer retention, and more ongoing commission, as a priority over customer best interest. With this specific product now being sold by over 85% of brokers, convinced of how it benefits the brokers, no mention is made of the fact that 80,000+ borrowers had their "competitive rates" increased by 2.5% during 2008. Independent owners of aggregators would provide those facts for borrowers instead of peddling them these loans which appear attractive, but have their rates raised because they have no reference rate. At least the banks have the standard variable rate for borrowers to reference when offered a "special rate". White label loan interest rates can, and have been, raised to suit the whim of the White Label provider.

For example. Westpac / St George are offering variable rate loan at 3.68% variable – discounted for life – discount off the standard variable rate. Advantedge is offering 3.69% "special" with no reference to anything and no requirement for it to hold that discount. The fact that brokers are recommending and actually convincing borrowers to obtain one of the many variations of Advantedge's white label loans when borrowers can get a genuine "discount for life" loan at 3.68% from St George, 3.69% from NAB or 3.99% from Commonwealth is absolute proof that ownership of brokerages has largely destroyed the value proposition that borrowers think they are getting – with even the brokers being unaware just how much they have been manipulated into recommending loans that really are not in the best interest of the borrower.

4. ASIC as competition promoter / advocate is best

This is a horribly bad idea. The WA Regulator had both of these functions and when it found a Finance Broker who had been arranging loans for over two and a half years without a licence, arranged over 4,000 loans worth over $800 Million; instead of enforcing the legislation, it turned around and asked them to obtain a license and in return, it would do nothing. Why? – Because their presence in the WA Market promoted competition – so that competition was more important than the offences that were committed. Over $1 Billion has been overcharged to borrowers by the Finance Broker Australia wide since they realised that there was no enforcement of that legislation.

Would this happen at ASIC? – it already has. Enforcement authority was transferred from WA to ASIC in 2010 and when this was raised with ASIC, ASIC advised “we found them fit and proper and granted them an ACL – so they must be OK” and did nothing. Providing a regulator with conflicting priorities makes for bad outcomes.

5. Knowing how loan stacks up against actual rates paid by others.

This comes unstuck easily for all Lenders who do not use reference rates. I can look back at the bank reference rates right now and can see what my “discounted for life” rates would have been over the last 5 years. For white label loans such as the Advantedge and Macquarie range, I could not tell you what anyone paid last week, or what they would pay next week. They can manufacture one which is “typical” but then advise that the borrower was different in some way, allowing this “typical” rate to be avoided.

Providing a reference rate to which each loan is “discounted”, with that rate being published by each lender – made available for the last 5 years, would completely open up transparency and provide borrowers with certainty that they are comparing “apples with apples” – and that they are getting the true nature of the loan. It would also allow borrowers who obtained loans at a “low discount” to then refinance at a time of higher competition and “high discount”.

Brokers, legislated to act in the borrowers’ best interest, should be obligated to advise their borrowers when they become aware of any similar loan that has an interest rate at least 0.5% lower than their existing rate.