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Australian Competition & Consumer Commission
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Dear Ms Bull

Submission on Commonwealth Bank of Australia - proposed acquisition of Bank of Western Australia Ltd and St Andrew's Australia Pty Ltd

The Finance Sector Union (FSU) represents 50,000 members employed in the finance sector across Australia, with the majority of these employed in the major banks.

The FSU has a unique perspective on the needs of consumers and other stakeholders in banking. The FSU and its members have been at the 'front-line' of many mergers in the banking sector and consequently have strong reservations about the latest proposed acquisition. We do not believe the proposed merger will enhance the welfare of Australians through increased competition within the industry.

We urge the ACCC to block the proposed merger between BankWest and the Commonwealth Bank of Australia (CBA). If the proposed merger proceeds we submit that it will:

- remove an effective and vigorous competitor from the market; and
- essentially guarantee that the major banks would continue to launch takeovers for the remaining smaller players thereby removing diversity from the market.

We note that our recent submission regarding the Westpac/St George merger predicted that:

“A merger of St George and Westpac will not generate increased competition within the industry, especially when the most likely outcome is that the remaining three major banks will seek to acquire the remaining small regional banks in order to compete with the new entity.

The effect of this proposed merger is that second tier banks will be consumed and consequently have a decreased role in domestic competition. This is a deep concern for innovation, consumer choice and customer satisfaction in the Australian marketplace.”

The proposed merger between BankWest and the CBA is indicative of the trend that is already emerging in the wake of the proposed Westpac/St George merger. If the current merger proposal is approved then we believe it will push the other major banks to acquire the remaining second tier banks which will ultimately lead to a banking market totally dominated by four institutions.

1. Removal of a “vigorous and effective competitor”

“A vigorous and effective competitor (also known as a Maverick firm) may drive significant aspects of competition, such as innovation or product development, even though their own market share may be modest.”¹

The FSU submits that BankWest is an “effective and vigorous competitor” as per the definition ACCC merger guidelines and the acquisition by the CBA would effectively result in their removal from the market.

Price leader

The FSU believes that BankWest has pushed other market participants by virtue of being a price leader. BankWest has undertaken an “aggressive product pricing” strategy² and financial commentators have indicated where BankWest has been a price leader:

1. “Hero” Bank account – everyday transaction account with no fees and interest of 5%p.a. on all balances up to \$5,000.³
2. “Kids’ Bonus saver” account – 10% p.a. bonus interest rate paid each month when \$25-\$250 is deposited and no withdrawals are made, no account fees.⁴
3. “TeleNet saver” account – 8.1% promotional rate, was the highest of all the big five banks (for a period) as well as other smaller competitors including ING direct, AMP, Citibank and HSBC.⁵
4. “Rate Tracker” Home Loan – offers customers 1% off the average standard variable rate of the big four banks for the first two years of their loan.⁶
5. “Regular Saver” account – offers 9% interest if consumers deposit between \$50 and \$500 per month and make no withdrawals.

BankWest is currently the market leader for average deposit balances (the average deposit balance of a BankWest customer is \$31,000; the previous price leader ING Direct averages \$29,000). Additional pricing information is contained in *Attachment A*.

Customer service

In addition BankWest’s customer service and product offerings have also differentiated them from many of their competitors. Recent data shows Bankwest’s customer satisfaction ratings to be well above any of the major banks and significantly higher than CBA’s.⁷

Overall BankWest’s strategy has focused on “product innovation, clearly articulating the difference in service, developing additional specialisations and greater flexibility

¹ ACCC Merger Guidelines 2008, page 44.

² “CBA has no eastern states strategy for BankWest”, *The Sheet* (09/10/08)

³ Pascoe, M., “BankWest turns up pressure on Big Four”, *Crikey.com.au* (09/10/07)

⁴ “CBA has no eastern states strategy for BankWest”, *The Sheet* (09/10/08)

⁵ Cannex Data

⁶ *BankWest Website* (retrieved 03/11/08)

⁷ “Acquisition of BankWest and St. Andrew’s Australia” (ASX Briefing), *Commonwealth Bank*, 8 October 2008

in lending practises”. BankWest has indicated that they see themselves as a “challenger brand”,⁸ with a particular emphasis on providing an opportunity to bring “greater competition to consumers” (in particular) through their recent expansion into east coast market.⁹

BankWest has implemented various strategies in order to produce a marked differentiation from the major banks. These include:

- Extended trading hours¹⁰ – often after business hours as well as Saturday and Sunday. This had a direct implication on other banks including ANZ who notably ran a series of television advertisements about their extended operating hours in the lead up to the launch of BankWest’s east coast expansion.¹¹
- “Retail store layout”– BankWest has actively attempted to market themselves away from the perception of “the traditional banking mould”, in favour of “café style open-plan stores which provide coffee making facilities, allow customers to browse books and use the internet”.¹²
- Additionally BankWest stores sell a range of non-financial products including popular books on personal finance, property and investing, as well as home and office accessories such as money education tools for kids, wallets, address books, writing pads, business card-holders, key-rings and piggy banks.¹³

2. Failing firm

We understand that BankWest may be arguing that it is a “failing firm” and therefore the merger with CBA should be assessed in that context. Obviously the FSU does not want to see BankWest fail, however the FSU has a number of concerns and observations if the “failing firm” argument is being used to facilitate the CBA’s acquisition of BankWest.

If BankWest is genuinely a “failing firm” then the FSU would generally support its acquisition to ensure its ongoing viability. However this does not automatically mean support for the CBA’s proposal. We submit that the ACCC should investigate whether “the relevant firm has attempted unsuccessfully to gain an alternative purchaser who would raise less or no competition concerns” – the FSU is not aware of any such attempts by BankWest. Ideally, the FSU would prefer BankWest to be acquired by a second tier bank or other company that would allow BankWest to continue to play its valuable role in the market.

We would also submit that the recent guarantee on deposits and the availability of government securities make BankWest a viable acquisition for institutions other than CBA that would raise less competition concerns.

⁸ “Banking News: Interview Gary Johnson – Head of Corporate and Commercial East, BankWest”, *East and Partners* (14/12/04)

⁹ Transcript of the House of Representatives Standing Committee on Economics “Competition in the banking and non-banking sectors”, *Commonwealth of Australia* (08/08/08)

¹⁰ Trading hours (Sydney), *BankWest Website*

¹¹ Pascoe, M., “BankWest turns up pressure on Big Four”, *Crikey.com.au* (09/10/07)

¹² “BankWest break the mould with first new retail stores, BankWest Media Release (09/10/07)

¹³ *Ibid*

3. Job losses

A primary concern for the FSU is, unashamedly, the potential loss of jobs as a consequence of the proposed merger. We understand that under section 50 of the TPA the ACCC does not specifically consider job losses, however FSU believes that job losses are a significant consequence of any merger and should not be overlooked.

If the CBA/BankWest merger proceeds we expect jobs will be lost as a result of IT integration, merging of corporate services and cancellation of the east coast roll-out.

4. Branches

FSU believes that branch closures will be an inevitable outcome if the merger goes ahead and will result in a loss of banking services for some communities. This is particularly pertinent given the CBA has indicated that it will cease BankWest's east coast expansion upon the consolidation of the two banks.¹⁴

We again urge the ACCC to be sceptical regarding any claims that the BankWest brand and branches will be retained in the longer term.

The merged entity will not allow any genuine competition between the two brands; consequently the consumer will simply have the illusion of choice. We also retain concerns that the BankWest brand and its separate branches may disappear within a few years as has been the case with numerous other banking mergers over the years.

5. More mergers, less competition

As previously argued the FSU strongly believes that the ACCC must look beyond the proposed merger and assess all the flow-on effects to the Australian financial sector.

In its report of the 2008 domestic banks reporting season, KPMG describes a current movement towards consolidation within the finance industry and forecasts an acceleration of this trend in the next twelve months. In particular, they predict increased mergers and takeover activity involving regional and non-bank lenders with the domination of the market by the four major banks.¹⁵

The existence of regional/tier two banks such as St George and BankWest has long been recognised as having an important role in stimulating competition in all Australian banking markets. In their paper on competition analysis of Australian bank mergers, Garry Goddard and Greg Walker outlined that such banks:

“... were considered to be efficient, innovative, geographically focused, close to their customers and sufficiently differentiated from the ‘look-a-like; majors to provide an incentive for the major banks to remain competitive’ by the TPC and later reiterated by the ACCC.”¹⁶

The threat of mass consolidation of ‘second tier’ banks into the remaining ‘big four’ banks (as evidenced by this proposed merger) raises serious questions surrounding

¹⁴ “CBA to end BankWest's eastern expansion”, *The Age* (09/10/2008)

¹⁵ “Major Australian Banks: Year End 2008 Financial Institutions Performance Summary”, *KPMG Australia* (01/11/08)

¹⁶ Goddard, K and Walker, G, “Competition Analysis of Bank Mergers in Australia”, *Journal of Law and Financial Management*, 1,1,2002

competition policy within the finance industry. BankWest has conceded in its submission and evidence to the House of Representatives Standing Committee on Economics, that the trend towards market consolidation has led to negative economic ramifications for smaller players, as well as the finance industry overall, including some significant barriers to entry.¹⁷

Given the importance of existence of second tier banks, we do not believe it can be argued that a merger of BankWest and CBA will increase competition within the industry, especially when the most likely outcome is an acceleration of the trend of the major banks acquiring the remaining smaller banks.

The historical precedent of similar mergers and acquisitions suggests that any competitor who differentiates themselves and/or becomes large enough to threaten the major banks is simply taken over by them.

The FSU has a deep concern for product innovation, consumer choice and customer satisfaction, particularly when smaller banks such as BankWest poll significantly better than their larger counterparts.¹⁸

Conclusion

In summary, the FSU is opposed to the merger on the basis that:

- it will remove an effective and vigorous competitor from the market;
- there will be an increased likelihood of less competition in the banking sector through the four major banks launching takeovers for the remaining smaller players.

If you have any questions in relation to this submission please contact James Bennett on (02) 6273 0227.

Yours sincerely



Leon Carter
National Secretary

7 November 2008

¹⁷ Transcript of the House of Representatives Standing Committee on Economics “Competition in the banking and non-banking sectors”, *Commonwealth of Australia* (08/08/08)

¹⁸ “Not so satisfied with NAB”, *The Sheet* (retrieved 30/05/08)

Home Loan Interest Rates (as of 06/11/08)

Institution	Owner Occupied					Investment					Line of Credit	Equity		
	Std Var	Basic Var	1 year fixed/cap	2 years fixed	3 years fixed	5 years fixed	Std Var	Basic Var	1 year fixed/cap	2 years fixed			3 years fixed	5 years fixed
<u>Adelaide Bank</u>	7.9	7.87	7.09	7.09	7.29	7.39	7.9	7.87	7.09	7.09	7.29	7.39	8	-
<u>AMP Banking</u>	8.62	7.97	7.69	7.69	7.69	7.99	8.62	7.97	7.69	7.69	7.69	7.99	8.82	-
<u>ANZ</u>	8.32	7.62	6.99	6.99	7.19	7.99	8.32	7.62	6.99	6.99	7.19	7.99	8.32	-
<u>Bank of Queensland</u>	8.36	7.78	7.29	7.39	7.49	7.59	8.36	7.78	7.29	7.39	7.49	7.59	8.51	-
<u>BanksA</u>	8.36	-	8.54	8.49	8.59	8.59	8.36	-	8.54	8.49	8.59	8.59	8.46	-
<u>BankWest</u>	8.25	8.13	7.69	7.69	7.89	7.89	8.25	8.13	7.69	7.69	7.89	7.89	8.23	9.7
<u>Bendigo Bank</u>	8.4	-	7.09	7.09	7.29	7.39	8.4	-	7.09	7.09	7.29	7.39	8.5	-
<u>Colonial</u>	8.32	7.81	7.14	7.14	7.29	7.49	8.32	7.81	7.14	7.14	7.29	7.49	-	-
<u>Commonwealth Bank</u>	7.74	7.23	7.14	7.14	7.29	7.49	7.74	7.23	7.14	7.14	7.29	7.49	7.88	7.88
<u>HSBC</u>	8.56	7.88	8.99	8.99	7.99	8.9	8.56	7.88	8.99	8.99	7.99	8.9	8.64	-
<u>nab</u>	7.74	7.9	6.99	6.99	7.39	7.39	7.74	7.9	6.99	6.99	7.39	7.39	7.84	-
<u>St George Bank</u>	8.36	7.64	7.39	7.29	7.39	7.39	8.36	7.64	7.39	7.29	7.39	7.39	8.46	-
<u>Suncorp</u>	8.41	7.83	7.29	7.04	7.4	7.89	8.41	7.83	7.29	7.04	7.4	7.89	8.41	8.41
<u>Westpac</u>	7.71	7.78	7.19	7.09	7.09	7.39	7.71	7.78	7.19	7.09	7.09	7.39	8.51	-