

3 May 2019

Adeel Nabeebux  
Project Manager  
Australian Financial Complaints Authority

**By email: [comparativereporting@afca.org.au](mailto:comparativereporting@afca.org.au)**

Dear Mr Nabeebux,

**Re: Proposed AFCA arrangements for comparative reporting of complaint data**

#### **Executive summary**

Financial Rights Legal Centre and Consumer Action strongly support the proposed AFCA arrangements for comparative reporting of complaint data. We consider that public accountability for financial service providers improves the overall competitiveness of the marketplace by encouraging businesses to improve their practices and empowers consumers to make informed decisions about where to take their business. Further, it provides incentive for regulators to take enforcement action against problematic players in the market where there are clearly systemic issues.

The proposed reporting approach will enable consumers, consumer advocates and other stakeholders to access information in an appropriate way. We suggest that comparative reporting data should be searchable by business or trader name and be available indefinitely on the AFCA website. The data should also be presented in a form that is easy to understand, with definitions to clarify jargon and the meaning of headings. Further, outcomes and complaint summaries should be included to ensure the data provides a more complete picture to consumers about the financial service provider. This will also be useful to enable consumer advocates and other stakeholders to identify systemic issues and emerging trends.

We strongly encourage AFCA to publish complaint data from its predecessor schemes between 1 July and 31 October 2018. Doing so is in the public interest and would increase transparency and accountability for financial service providers and is particularly relevant given the data originated during the Banking Royal Commission. Reporting Financial Ombudsman Service (FOS), Credit and Investment Ombudsman (CIO) and Superannuation Complaints Tribunal (SCT) data could be done in a way that does not confuse it with AFCA's reporting style moving forward.

## **About Consumer Action**

Consumer Action Law Centre is an independent, not-for profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.

## **About Financial Rights Legal Centre**

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumers understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies, and the Mob Strong Debt Help services which assist Aboriginal and Torres Strait Islander Peoples with credit, debt and insurance matters.

## **Comparative reporting approach**

We approve of AFCA's proposed approach to publish the number of complaints accepted for each relevant financial firm and to categorise the data according to the product group which the complaint falls into. The six-monthly reporting frequency proposed is also favourable.

## **Business size metric**

As the primary audience of the complaint data, consumers should have access to data that is accessible and easy to understand. The size of the financial firm is less likely to factor into their decision when comparing firms and products. We hope this measure does not create confusion by complicating comparative data. On the other hand, financial firms and consumer advocates are likely to find this information useful, for example, to enable them to set benchmarks or compare external data or see trends over time. To balance these two competing interests, we would suggest making data searchable online with the option of excluding certain metrics.

## **Table of complaint data and outcome data**

We approve of the publication of the number of complaints received, accepted and resolution rate. It would be useful to provide a definition to distinguish between complaints received and accepted to make the data more accessible to the consumer.

It is also important to distinguish the method by which complaints were resolved, whether by AFCA or some internal dispute resolution process, or outside either of those processes. Also, AFCA should avoid using the terminology 'successful outcome' as this is often subjective and does not necessarily mean that a good or fair outcome was received by the consumer. Instead, there should be a clarification of the outcome of the complaints in the form of outcome summaries. Without this data, consumers will be given an incomplete picture of the conduct of the firm.

The United States Consumer Financial Protection Bureau provides a model for publishing complaints data with outcome summaries in a searchable database.<sup>1</sup> The proposed approach would be to include both searchable outcome and complaint summaries to adequately inform consumers about financial services and products.

### **Franchises, chains and corporate groups**

It is important that the complaint record lists the name of the franchise brand rather than the franchisee. This is important for two reasons: first, consumers perceive themselves to be dealing with the overall brand rather than the particular franchisee. Second, this will provide an incentive not only to the brand managers of the overall brand but also other franchisees who have a stake in ensuring that their business practices improve.

It should also be possible to search not just the brand name but also the trader name to ensure that firms can be held accountable. This is particularly important for corporate groups that own a number of brands that deliver similar services.

### **Minimum threshold number of complaints**

We are supportive of the proposed minimum threshold of 4 or more complaints for 2018-2019 since it will be a partial reporting year.

### **Data recording policy**

To facilitate access to the complaint data, reporting data should remain available and for an indefinite period on AFCA's website. It should also be made searchable by trader name or brand name. This will be instrumental in enabling consumer advocates to track systemic issues over a period time, for consumers to be informed about the complaints regarding a particular service provider and also be useful for businesses to track their performance.

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<sup>1</sup> See <http://www.consumerfinance.gov/complaintdatabase/>

## Comparative reporting for the transitional year

We strongly encourage AFCA to publish complaint data from its predecessor schemes between 1 July and 31 October 2018. Complaint data involving financial firms during the Banking Royal Commission will be particularly informative given the comparisons that can be made by consumers and business of data during and after the Royal Commission. We understand that it is difficult to consolidate CIO, FOS and the SCT reporting data into a single style and that the shorter reporting period prior to AFCA's launch on 1 November 2018 also makes it difficult to present data in a way that is easy to compare. However, we believe publishing such data to be in the public interest, is transparent, improves public accountability for businesses and could be done in a way that does not confuse it with AFCA's future reporting approach.

We suggest that data from predecessor schemes could be published according to their previous individual reporting styles, separately from AFSA's. This will ensure that there is accountability for the complaints that were received and closed by predecessor schemes. Publishing AFCA's predecessor schemes complaint data also goes towards fulfilling one of the guiding principles for the establishment of AFCA: *Efficient and effective transitional arrangements – no dispute existing on AFCA's commencement should be left behind.*<sup>2</sup> Publishing CIO and FOS data in particular will give stakeholders confidence that the transition period was managed effectively and will provide a benchmark for AFCA complaints moving forward. Access to this data will no doubt be beneficial to consumers, and consumer advocates would benefit from having access to such data without having a 'missing' transition period.

Please contact Patrick Sloyan, Policy Officer at **Consumer Action Law Centre** on 03 9670 5088 or at [patrick@consumeraction.org.au](mailto:patrick@consumeraction.org.au) if you have any questions about this submission.

Yours Sincerely,



Jillian Williams  
Acting CEO, Consumer Action Law Centre



Karen Cox  
Coordinator, Financial Rights Legal Centre

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<sup>2</sup>The Australian Government the Treasury, *Establishment of the Australian Financial Complaints Authority Consultation Paper*, 2 November 2017 available at <https://treasury.gov.au/consultation/c2017-232832>