Indigenous Consumer Assistance Network
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7 February 2022

Banking Code Compliance Committee
PO Box 14240
MELBOURNE VIC 8001

By email: info@codecompliance.org.au

Dear Ms Dawson,

CODE COMPLIANCE PRIORITIES – 2022-2023

The Indigenous Consumer Assistance Network welcomes the opportunity to input to the Banking Code Compliance Committee in relation to its compliance priorities.

ABOUT THE INDIGENOUS CONSUMER ASSISTANCE NETWORK

The Indigenous Consumer Assistance Network Ltd (ICAN) provides consumer education, advocacy, and financial counselling services to Aboriginal and Torres Strait Islander peoples across north and far north Queensland, with a vision of "Empowering Indigenous Consumers".

The people we work with are strong, resilient and knowledgeable about their lives and their communities. However, structural barriers and an uncompetitive marketplace in remote and regional communities create conditions in which consumer and financial exploitation occur. As a result, Aboriginal and Torres Strait Islander peoples often experience heightened consumer disadvantage. In line with its vision to empower Indigenous consumers, ICAN provides people with assistance to alleviate consumer detriment, education to make informed consumer choices and consumer advocacy services to highlight and tackle systemic consumer disadvantage experienced by Indigenous peoples.

PREVIOUS SUBMISSIONS

As well as being a signatory to the Joint Submission into the Code of Banking Practice Review, ICAN provided its own submission to the review which focussed on the banking issues faced by people in prison and those transitioning out of prison.

We are also a signatory to the Joint Consumer Submission to the Regional Banking Taskforce dated December 2021.

We also provided a submission and evidence to the House of Representative's Standing Committee into Indigenous Affairs' Inquiry into the Corporate Sector's Engagement with Aboriginal and Torres Strait Islander Consumers.

We ask that this submission be read alongside the above submissions which set out the detail and context for the recommendations put forward here.

OUR SUBMISSION

A. Improved Engagement with Aboriginal and Torres Strait Islander Peoples

Throughout all of our recommendations below and the submissions we have referred to, it is abundantly clear that much more needs to be done by the banking industry to meet the needs of Aboriginal and Torres Strait Islander customers. We agree with the submission of the Consumer Action Law Centre that "some aspects of banking services systemically discriminate against" Aboriginal and Torres Strait Islander peoples and communities. We have highlighted through submissions and through our advocacy with individual banks the harm that is being caused and the urgent action needed to improve banking services for Aboriginal and Torres Strait Islander peoples.

In December 2021, ICAN provided a submission to the Inquiry into the Corporate Sector's Engagement with Aboriginal and Torres Strait Islander consumers. The recommendations made in that submission apply directly to the banking sector. In short, there must be a greater commitment to internal capacity building, resourcing and engagement by the sector to meet the needs of Aboriginal and Torres Strait Islander customers.

> **Recommendation One**: We strongly recommend that the Committee prioritise the experience of Aboriginal and Torres Strait Islander banking customers. We urge the Committee to undertake a focussed look at where improvements are needed across the banking sector to better support Aboriginal and Torres Strait Islander peoples and, through working with Aboriginal and Torres Strait Islander communities, guide the industry on how to achieve these improvements.

B. Ongoing Commitment to Monitoring and Sanctioning Part 4 Breaches

Throughout the submissions referred to above, it is apparent that banks need to significantly improve when it comes to meeting their obligations under Part 4 of the Code to provide inclusive and accessible services to all people. We therefore welcome the recommendations made in the BCCC's Inquiry Report into Banks' compliance with Part 4 (the BCCC Report).

The BCCC has rightly identified that there are "devastating impacts on customer wellbeing" when there is a failure to comply with Part 4 obligations. We see these impacts on the people we work with every day. The impact is not just experienced by the bank's customer alone. Children and broader family members are also impacted, having a ripple effect across communities.

The obligations under Part 4 of the Code are critical obligations for which banks should be held accountable when breaches occur.

In terms of this consultation, we submit that:

1) Breaches of Part 4 are a key risk area for non-compliance with the Code.
2) The potential and actual causes of detriment are by now well-documented within submissions such as those referred to above.
3) Part 4 of the Code is an area of recent focus that we strongly recommend the BCCC continue to prioritise.

Given the above, we note and welcome the BCCC's stated commitment to Part 4 of the Code remaining a "priority area for the BCCC" and its "plan to monitor further industry progress until there is greater capability and consistency across industry." It would be good to understand what the BCCC will put in place to not only monitor but also encourage banks to adopt the recommendations made in a meaningful and timely manner.

> **Recommendation Two**: We recommend that a process be implemented by which banks are required to report on their implementation of the recommendations made by the BCCC. Given the very significant harm caused when Part 4 obligations are breached, we also

strongly encourage the BCCC to seriously consider using its power to sanction those banks which continue to engage in breaches of Part 4 of the Code following its recommendations.

All of the recommendations made in the BCCC Report must be implemented. However, there are some that should be prioritised as a matter of urgency to immediately improve peoples' access to banking services. These include:

Recommendations 4 and 5 relating to identification requirements for Aboriginal and Torres Strait Islander customers. We believe that the AUSTRAC guidance is being narrowly interpreted and disadvantaging the very people it is intended to benefit. We welcome a transparent, industry wide approach to the AUSTRAC Guide that ensures banks accept an expanded list of acceptable referees for Aboriginal and Torres Strait Islander customers as intended by the AUSTRAC guides and confirmed by the BCCC.

Recommendation 7 calling for an industry wide approach to providing banking services to customers in prison. We have made a number of recommendations to improve banking services to people in prison. As a first step, there is a need for flexibility when it comes to identifying incarcerated and recently released customers. Critically, banks must immediately start accepting Corrective Services identification paperwork as satisfying 100 points of ID. It is illogical that identification used in the imprisonment of a person, cannot be relied on by that person to satisfy a bank of their identity. We see nothing in either the AUSTRAC guide or the *Anti-Money Laundering and Counter Terrorism Financing Rules* that prevents banks from immediately adopting this approach. In addition to this, banks need to establish a dedicated phone line or priority call routing for people in prison.

Recommendation 15 to eliminate barriers to accepting an authority from a financial counsellor or legal representative. Barriers to accepting authorities can significantly impact on people experiencing vulnerable circumstances. These barriers also significantly impact financial counselling services; slowing down our ability to obtain resolutions on behalf of people. This in turn reduces our capacity to meet the already very high demand for our services. We are also concerned, that banks are significantly narrowing the scope of what a financial counselling authority will allow a financial counsellor to do on behalf of a customer already experiencing significant barriers to banking. This becomes particularly challenging when working with people in remote communities and in prison. While ever banking services remain inaccessible to people in remote communities or prison, financial counsellors must be able to undertake basic banking services on their behalf.

We also note that third party authorities from other support workers and agencies must be accepted by banks. For example, financial counselling capacity in prisons is limited and therefore financial counsellors regularly work with advocacy services in the prison as well as Corrective services staff who are trying to support people to meet their banking needs. At the moment, banks generally require these services to provide either Powers of Attorney or Guardianship orders (both of which are well beyond the scope of their role). It is critical that banks accept third party authorities from support agencies to ensure a timely resolution of issues and to take the pressure off the system.

The issue of authorities and what is acceptable to individual banks lacks transparency and is fraught with inconsistencies both within and across banks. Banks must, as a matter of priority, clearly articulate their approach to third party authorities, bearing in mind that a broad approach to community supports is needed.

Recommendations 16 and 17 – Banks can do significantly more to proactively identify people entitled to basic banks accounts. Information on websites is not targeted to the people entitled to these accounts and we look forward to seeing significant and urgent improvements in targeted, proactive identification of people entitled to basic bank accounts. Moreover, our submission to the Code Review highlighted our concerns that people in prison are not being offered a fee free basic account when they enter prison. We have made recommendations regarding reforms to the Banking

Code regarding this. However, we do not believe amendments to the Code are needed before banks take the initiative of ensuring that these accounts are available to people in prison.

Recommendation 18 – banks must continue to work with family and domestic violence experts in developing better ways to identify and prevent financial abuse. The significant and long term harm caused to victims and families of financial abuse means that this must always be a priority issue for banks and the BCCC. We also believe that much more could be done by banks to prevent scams which is clearly a growing area of harm which we see far too much of in our financial counselling casework.

Recommendations 8 – 14: Improved Organisational Capability and Governance Frameworks

The BCCC has rightly recognised that improvements to Part 4 of the Code will not occur without banks building the internal capacity needed to learn, develop and improve processes and practices. Banks must demonstrate their commitment to, and accountability for these improvements through governance and executive oversight mechanisms as well as reporting against industry wide benchmarks. The BCCC's recommendations regarding organisational capability to comply with the Code and improved governance frameworks are critical to the implementation of Part 4 improvements and should continue to be the focus of the BCCC's monitoring and compliance work.

C. Remote and Regional Banking

In addition to an ongoing focus on the implementation of the BCCC Report into Part 4 of the Code, we urge the Committee to also commit to prioritising industry improvements to regional and remote banking issues. We have provided insights to both the ABA (through research undertaken by Social Ventures Australia) and to the Regional Banking Taskforce in relation to remote banking.

Accessible banking services are essential to the lives of people in remote and regional Australia. However, branch closures have created significant barriers to people living in remote and regional communities. Online services and dedicated phone lines are not an answer to branch closures as digital literacy and access to reliable internet and telephone reception are severely limited in the very places that branch closures occur. Moreover, dedicated phone lines and initiatives such as Bank@Post do not provide the full suite of banking services that people need to access. The gap between those who can access banking services and those who can't is significantly widening and the resulting detriment is all too clear in our work with people in regional and remote communities.

The Joint Consumer Submission to the Regional Banking Taskforce provided a number of recommendations which would result in significant improvements to accessing low cost banking services for people in regional and remote communities.

> **Recommendation Three:** We recommend the BCCC monitor and encourage the implementation of improvements to regional and remote banking services.

Among the recommendations made to the Taskforce, mobile banking services and fee free ATM's must be prioritised. People in remote communities that we work with consistently advise us that they need access to regular face to face banking services and fee free ATM's – neither of which are currently accessible.

> **Recommendation Four:** We recommend that the BCCC encourage banks to provide regular mobile banking services to regional and remote communities and more accessible fee free ATMs. We also urge the BCCC to encourage an immediate moratorium on branch closures under the Branch Closure Protocol which is enforceable through the Banking Code of Practice.

Please contact Jillian Williams at ICAN on 0488 225 527 or at jillian.williams@ican.org.au if you have any questions about this submission.

Yours Sincerely,

Jillian Williams

Operations Manager

Indigenous Consumer Assistance Network