



**Submission by the
Financial Rights Legal Centre**

Submission in response to:

ANZ Banking Group Ltd application for
authorisation N99426 to the ACCC

December 2016

About the Financial Rights Legal Centre

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumer's 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. Finally, we also operate an Aboriginal Advice Service nationally to assist Aboriginal & Torres Strait Islanders with credit, debt and insurance issues. Financial Rights took over 25,000 calls for advice or assistance during the 2015/2016 financial year.

Financial Rights also conducts research and collects data from our extensive contact with consumers and the legal consumer protection framework to lobby for changes to law and industry practice for the benefit of consumers. We also provide extensive web-based resources, other education resources, workshops, presentations and media comment.

This submission is an example of how CLCs utilise the expertise gained from their client work and help give voice to their clients' experiences to contribute to improving laws and legal processes and prevent some problems from arising altogether.

For Financial Rights Legal Centre submissions and publications go to www.financialrights.org.au/submission/ or www.financialrights.org.au/publication/

Or sign up to our E-flyer at www.financialrights.org.au

Credit & Debt Hotline 1800 007 007
Insurance Law Service 1300 663 464
Aboriginal Advice Service 1800 808 488
Monday – Friday 9.30am-4.30pm

Introduction

Thank you for the opportunity to comment on application for authorisation by ANZ Banking Group Ltd. The Financial Rights Legal Centre recommends that the authorisation be denied.

We contend that:

1. The proposed authorisation would not deliver a net public benefit; and
2. The proposed authorisation would deliver a detriment because:
 - a. It would be continuing to finance single premium insurance policies when ASIC has identified this conduct to be detrimental for consumers; and
 - b. The authorisation fails to acknowledge the availability to pay insurance premiums by instalments (which is desirable).

Add-on loan protection insurance sales

Financial Rights has been providing specialist insurance legal advice for over nine years. In that time, we have repeatedly seen systemic problems with the sale of add-on insurance. The systemic problems include:

1. The products are poor value with very poor successful claims rates.
2. The product sold is completely unsuited to the consumer's needs.
3. The consumer is not even told that the insurance has been added.
4. The consumer is told that the insurance is compulsory to get the loan (when it is not).
5. The addition of significant costs to the loan with single premiums that make the loan a lot more expensive and exacerbates financial hardship if circumstances change (even slightly).

The above problems are systemic and have not been resolved to date. The harm caused to consumers over many years by these practices is inestimable. It is very likely that many consumers had their car repossessed when their circumstances changed (even slightly) for the worst because of the extra costs on the loan from insurance that did not assist them at all.

It is very rare in our advice and casework service to find a consumer that has successfully claimed on the insurance (that was meant to protect them) to enable them to keep their car. Our experience reflects very poorly on the value of these products.

We believe that the only way to adequately protect consumers from these poor value products is to ban the sale of life insurance and similar products.

Add-on comprehensive car insurance sales

Financial Rights' is also aware of problems with the financing of comprehensive car insurance in dealerships. The problems are:

1. Adding significant costs to the loan with single premiums that make the loan a lot more expensive and exacerbates financial hardship if circumstances change (even slightly).
2. Car dealers are poor at explaining disclosure and this leaves people with insurance that does not cover them (as it is void due to non-disclosure).
3. Consumers often report disclosing accurately and this does not go on the insurance application as the dealer or banker knows the policy would not be approved. Again, consumers are left paying for insurance that is actually void due to non-disclosure.

Overall, we contend that consumers would be significantly better off with an insurance policy that is paid by instalments rather than a single premium that is financed by a loan. We concede that some instalment policies are more expensive than a single premium but a single premium with interest on the upfront cost is definitely more expensive.

ASIC Reports

ASIC has released a number of reports that examine the sale of add-on insurance being:

1. Report 470 – Buying add-on insurance in car yards: Why it can be hard to say no.¹
2. Report 471 – The sale of life insurance through car dealers: Taking consumers for a ride²
3. Report 492 – A market that is failing consumers: The sale of add-on insurance through car dealers³

The reports are damning. The reports also identify significant reforms required to fix the problems identified.

Finding 5 of ASIC Report 492 found that single premium policies increase the cost (of insurance) for consumers. There are three main concerns:

- The consumer incurs interest charges that increase the cost of insurance.
- If a consumer pays out their car loan early they will not receive the full refund.

¹ <http://asic.gov.au/regulatory-resources/find-a-document/reports/rep-470-buying-add-on-insurance-in-car-yards-why-it-can-be-hard-to-say-no/>

² <http://asic.gov.au/regulatory-resources/find-a-document/reports/rep-471-the-sale-of-life-insurance-through-car-dealers-taking-consumers-for-a-ride/>

³ <http://asic.gov.au/regulatory-resources/find-a-document/reports/rep-492-a-market-that-is-failing-consumers-the-sale-of-add-on-insurance-through-car-dealers/>

- Single premium policies reduce transparency about the product being sold and the cost of it.

The above matters are serious concerns that have not been addressed at all in the authorisation request by ANZ.

Net Public Benefit

The ANZ authorisation application claims there is a net public benefit for consumers on the basis that customers would have adequate insurance for their cars and customers are provided a convenient opportunity to obtain insurance without additional upfront costs.

Both these claims are not supported in the context of the ASIC Reports.

Claim 1 – ensuring adequate insurance

Consumers are required to get comprehensive insurance when getting a car loan. Given it is mandatory (and the loan cannot proceed without evidence of this) it is hard to see how ANZ is ensuring insurance. There is also no evidence provided on why it would be “appropriate” insurance.

Based on the ASIC Reports, consumers should definitely not enter into a single premium policy under finance. ASIC points to clear evidence⁴ that the consumer is more likely to be aware of the policy if it is paid in monthly instalments. It also notes that the impact of interest exacerbates ASICs concerns about negative and low value policies.

This claim completely fails when it comes to loan protection insurance given the many negative issues identified in the ASIC Reports.

Claim 2 – provide customers an opportunity to obtain insurance without additional up front costs

It is unclear and not explained what additional up front costs are being referred to. If ANZ is referring to an establishment fee for the loan then this fee relates to setting up the loan and not the insurance.

In short, ANZ has failed to provide evidence of a net public benefit.

Public detriments

There is a clear public detriment related to financed single premium insurance policies. There is a clear public detriment related to loan protection insurance. The ASIC Reports have set this out in detail. The authorisation application has failed to even address these issues when ANZ would have been fully aware of the ASIC Reports.

⁴ Para 142 Page 29 ASIC Report 492

The ASIC report 492 clearly identified a lack of price competition (see Finding 3)⁵ and the assertion by ANZ that the markets are competitive should be questioned given the ASIC Reports.

Pre-decision conference

Financial Rights requests that ACCC to arrange a pre-decision conference with consumer advocates and the ACCC.

Concluding Remarks

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact the Financial Rights Legal Centre on (02) 9212 4216.

Kind Regards,



Katherine Lane
Acting Coordinator
Financial Rights Legal Centre
Direct: (02) 8204 1350
E-mail: Kat.Lane@financialrights.org.au



Alexandra Kelly
Principal Solicitor
Financial Rights Legal Centre
Phone: 02 8204 1370
E-mail:
Alexandra.Kelly@financialrights.org.au

⁵ Pages 19-21 ASIC Report 492