AUSTRALIAN COMPETITION & CONSUMER COMMISSION

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10 July 2023

Peter Armitage
Ashurst Australia
5 Martin Place
Sydney NSW 2000

Linda Evans
Herbert Smith Freehills
161 Castlereagh Street
Sydney NSW 2000

Dear Mr Armitage and Ms Evans

ANZ proposed acquisition of SBGH Limited – Supplementary Report of Mary Starks

1. We refer to:

   a. Australia and New Zealand Banking Group Limited's (**ANZ**) application for merger authorisation dated 2 December 2022 in relation to its proposal to acquire 100% of the issued shares of SBGH Limited (which owns 100% of the issued shares of Suncorp Bank) from Suncorp Group Limited (**Suncorp**) (the **Application**); and

   b. the independent expert report prepared by Mary Starks, Partner at Flint Global, dated 16 June 2023 (**First Starks Report**).

2. We enclose a copy of a supplementary report prepared by Mary Starks dated 7 July 2023 (**Supplementary Report**).

3. The ACCC has commissioned the First Starks Report and Supplementary Report to assist it as part of its consideration of the Application.

4. The ACCC notes that:

   - The opinions and factual findings in these reports are those of Ms Starks. They do not represent the ACCC's position on the matters relevant to its ongoing assessment of the Application.
   - The Supplementary Report was prepared on the basis of further evidence and submissions received from the merger parties, including in response to the ACCC's Statement of Preliminary Views, as well as material received from third parties.
   - The ACCC will consider the First Starks Report and Supplementary Report, together with other material obtained by or provided to the ACCC, when determining whether to grant authorisation.

- The Supplementary Report includes information that has been redacted due to confidentiality and other reasons, including that the information is “protected information” which is subject to the secrecy provisions in the *Australian Prudential Regulatory Authority Act 1998*.

5. As you are aware, the ACCC must make a decision in relation to the ANZ/Suncorp Bank merger authorisation by 28 July 2023.

6. For this reason, in accordance with section 90(6)(a) of the *Competition and Consumer Act 2010* (Cth), we invite your clients to provide any submissions that they wish to provide the ACCC in response to the Supplementary Report by no later than **5.00pm on Friday 14 July 2023**. Pursuant to section 90(6A) of the Act the ACCC may, but need not, consider submissions received after this time.

7. In order for the ACCC to have sufficient time to consider any response made by the parties within that timeframe, the ACCC requests that any response be limited to no more than 50 pages. If materials are provided in excess of 50 pages, it may impact the ACCC’s ability to fully consider and take them into account by the current decision date.

8. We will place a copy of this letter and the Supplementary Report on the public register.

Yours sincerely

Daniel McCracken-Hewson
General Manager
Merger Investigations

Supplementary expert report of Mary Starks

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I have been briefed with, and referred to and relied on in this report, information that I understand is claimed as confidential, as well as material I understand is subject to the secrecy provisions of the Australian Prudential Regulation Authority Act 1998 (Cth) (APRA Act). [redacted]

[redacted]

1. Introduction

1.1 My name is Mary Starks. At the request of the ACCC I prepared a report, dated 16 June 2023, regarding ANZ's application for authorisation of its proposed acquisition of SGBH Limited ('Suncorp Bank', together 'the Parties'). As noted in that report ('my first report'), at the time I did not consider the further evidence and submissions that ANZ and Suncorp made in response to the ACCC's Statement of Preliminary Views. This supplementary report discusses to what extent these additional submissions, in addition to further material provided to me after my first report, have led me to change my views.

1.2 My instructions are to prepare a supplementary expert report which addresses the following question: "To what extent, if at all, does the further material with which you have been briefed (as described in Annexure A to this letter) alter any of the conclusions expressed in your First Report?" The full letter of instructions is set out in Annex 1.

1.3 As before, I have prepared this report in accordance with the requirements of the Federal Court's Expert Evidence Practice Note (GPN-EXPT), which includes the Harmonised Expert Witness Code of Conduct. I have read and complied with the Practice Note and agree to be bound by it.

1.4 My opinions expressed in this report are based wholly or substantially on specialised knowledge arising from my training, study or experience.

1.5 I declare that:

1.5.1 I have made all the inquiries which I believe are desirable and appropriate, save for any matters identified explicitly in my report;

1.5.2 No matters of significance which I regard as relevant have, to my knowledge, been withheld from the report.

1.6 I have been assisted by members of my team at Flint Global.[1] However, I have closely overseen the work carried out by my team and the conclusions represented in this report are my own.

[1] I am grateful for the assistance provided by Kah Loon Tham, Martin Holterman, Rohan Sakhrani, Nick Seaford, and Patrícia Sofia Pinto e Filipe.

2. Executive summary

Market definition

2.1 Having examined the new material provided to me, I consider it appropriate to also consider an alternative product market definition that includes SMEs regardless of whether they are agribusinesses. This is in addition to the approach I took in my first report, which involves looking at agribusiness banking and other SME banking separately. As noted in my first report, it is often possible to determine a merger's likely impact on competition without precisely defining the boundaries of the relevant market.[2] For example, when a merger is likely to lead to an SLC in any number of potential markets, it may be unnecessary to define the precise market boundaries. It may be efficient to leave the question of market definition open in such situations.[3] Indeed, the outcome of my competitive assessment is the same when considering this alternative product market definition.

2.2 On the issue of geographic market definition, I have not changed my view that the relevant geographic market for SME and agribusiness banking is local/regional. However, the new evidence on drive times of agribusiness relationship managers points to the relevant geographic markets for agribusiness being substantially larger than individual towns and their surrounding local areas.

Alternative buyer counterfactual

2.3 I have assessed the new material on credit ratings, funding costs, technology integration, cultural alignment, IRB accreditation, and scale benefits for a merged BEN/Suncorp entity. I have not seen evidence that fundamentally changes my view set out in my first report. I still consider that there is a real chance that the merged BEN/Suncorp entity could be a more effective competitor in the alternative buyer counterfactual than BEN alone would be in the factual scenario, and particularly so if it attains IRB accreditation.

Competitive assessment: Horizontal unilateral effects

2.4 In light of new evidence and the arguments submitted by the parties, I am persuaded that the evidence does not demonstrate a real commercial likelihood of an SLC in the standalone markets for SME banking and agribusiness banking, and the combined SME/agribusiness banking market. However, I cannot rule out an SLC in any of these markets. I note that this is a matter of professional judgement rather than a clear-cut distinction. I summarise my views on each of these markets in turn.

Market for SME banking

2.5 Taking into account the new evidence, as well as revisiting the existing evidence and analysis from my first report, I have considered two versions of the theory of harm in this market:

1. First, a narrow version that focuses on the loss of competition between the Parties: After the merger prices will rise and quality (including service levels and branch presence) will fall, because ANZ and Suncorp Bank will internalise diversion to each other and therefore set higher prices and lower quality.

[2] ACCC Merger Guidelines, para 4.4.

[3] ACCC Merger Authorisation Guidelines, para 6.13.

2. Second, a broader version that focuses on the likely changes in how Suncorp Bank will be run, post-merger: After the merger Suncorp Bank will adopt more of an "industrialised" model that emphasises digitisation and turnaround times, to the detriment of those customers who currently rely on its more "personalised" approach, unless other banks can fill that gap.

2.6 In summary, considering (i) the lack of data on local markets and (ii) the uncertainties around ANZ's plans with Suncorp and about the intentions of competing banks, I cannot say that there is a real chance of an SLC in the Queensland SME sector. However, I cannot rule it out either.

Market for agribusiness banking

2.7 Similar to the market for SME banking, I have taken into account the new evidence and revisited the existing evidence and analysis from my first report. Based on this, I have considered two versions of the theory of harm in the market for agribusiness banking:

1. A narrow version that focuses on the loss of competition between the Parties: After the merger prices will rise and quality (including the effort spent on relationship banking) will fall, because ANZ and Suncorp will internalise diversion to each other and therefore set higher prices and lower quality.

2. A broader version that focuses on the likely changes in how Suncorp will be run, post-merger: After the merger, it is possible that Suncorp will be run more like ANZ, i.e. adopt a more rigid and [redacted][4] approach to lending, which may include having a reduced willingness to fund non-traditional/bespoke businesses or investments.

2.8 On the narrow version of the theory of harm, the new evidence on drive times provides some indication that a regional/local geographic market may be larger than a single major town. Although not conclusive on the extent of local markets, this evidence points towards it being less likely that there are one or more local markets where there will be a real chance of an SLC because the merger causes there to be only three or fewer competitors left. However I cannot rule this out.

2.9 On the broader version of the theory of harm, I consider that given the uncertainties around ANZ's plans with Suncorp and the intentions of competing banks, I cannot say that there is a real chance of an SLC in the Queensland agribusiness banking sector. However, I cannot rule it out either.

Combined agribusiness/SME banking market

2.10 For the same reasons that I cannot rule out an SLC in either the agribusiness market or the non-agribusiness SME market, I cannot rule out an SLC in a combined agribusiness/SME market either. Similar considerations around the narrow and broad versions of the theory of harm, and the lack of evidence to draw a firm conclusion, apply.

Competitive assessment: Coordinated effects in the market for home loans

2.11 In my first report, I found a real chance of an SLC due to coordinated effects in home loans. Having assessed the new material provided to me, I have not seen evidence to suggest that my view set out in my first report

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[4] [redacted]

needs to be changed. I still consider that there is a real chance of an SLC due to coordinated effects in the Australian home loans market under the alternative buyer counterfactual.

2.12 In particular, I still believe there is a real chance that the merged BEN/Suncorp entity could be a more effective competitor in the alternative buyer counterfactual than BEN alone would be in the factual scenario, which would reduce the chances of coordination re-establishing itself in a sustainable fashion.

2.13 Furthermore, I consider that there is considerable agreement between the Parties' new submissions and me on the point of recent competition in the market for home loans. As I discussed in my first report,[5] I have found significant evidence of competition between the majors in recent years. The key question is whether this period of competition is a brief interruption of long-term coordination, or whether something has permanently changed in the market. In my opinion, the propensity towards coordination has not changed.

[5] Para. 9.69-9.81 of my first report.

3. Summary of my first report

Market definition and competitive assessment

3.1 In my first report, I found that the acquisition of Suncorp Bank by ANZ has a real chance of resulting in a substantial lessening of competition (SLC) in the national market for home loans, and the local/regional markets for agribusiness banking and SME banking. The findings from my first report are summarised in Table 1 (reproduced below).

Table 1: Summary of the competitive assessment in my first report

Market	Theory of harm	Counterfactual	Likelihood of SLC
Home loans (national)	Horizontal	Status quo	No real chance
		Alternative buyer	**Cannot rule out SLC**
	Coordinated	Status quo	No real chance
		Alternative buyer	**Real chance of SLC**
Transaction accounts (national)	Horizontal	Status quo	No real chance
		Alternative buyer	**Cannot rule out SLC**
	Coordinated	Status quo	No real chance
		Alternative buyer	No real chance
Deposits/term products (national)	Horizontal	Status quo	No real chance
		Alternative buyer	**Cannot rule out SLC**
	Coordinated	Status quo	No real chance
		Alternative buyer	No real chance
Agribusiness banking (local/regional)	Horizontal	Status quo	**Real chance of SLC**
		Alternative buyer	**Real chance of SLC**
SME banking (local/regional)	Horizontal	Status quo	**Real chance of SLC**
		Alternative buyer	**Real chance of SLC**

3.2 In my first report, I concluded that on the basis of demand and supply-side substitutability, the relevant markets for competition analysis are:

1. The **national** market for **home loans**;
2. The **national** market for **transaction accounts**;
3. The **national** market for **deposits/term products**;
4. **Local/regional** markets for **agribusiness banking** in Queensland; and
5. **Local/regional** markets for **SME banking** in Queensland.

3.3 In the national market for home loans, I concluded that the acquisition has a real chance of resulting in an SLC in the national market for home loans due to coordinated effects compared to the 'alternative buyer' counterfactual. The acquisition prevents the creation of a significant competitor in the market in the form of a merged BEN/Suncorp Bank entity, which will likely pose a stronger competitive constraint on the major banks (than would be the case in the factual) and undermine coordination. On the basis of the available evidence, I concluded that in my view coordination has been present in the market in the past, appears currently to have broken down (likely as a result of rapidly changing market conditions), but could reassert itself again when conditions stabilise.

3.4 In the local/regional markets for agribusiness banking, I concluded that the acquisition has a real chance of resulting in an SLC in local/regional markets for agribusiness banking in Queensland due to horizontal unilateral effects compared to both the 'status quo' and 'alternative buyer' counterfactuals. Suncorp Bank is a vigorous and effective competitor in Queensland, particularly for smaller agribusinesses, and there is evidence to suggest that Suncorp Bank competes differently from the major banks and Rabobank, particularly in non-price factors. Therefore, the consumer harm arises from a reduction in consumer choice and competition stemming from the elimination of a strong competitor that competes differently from the major banks and Rabobank. I also noted that I did not have access to sufficiently granular information to make a full assessment at local market level, but the available evidence led me to believe that the risk of an SLC is higher in Northern Queensland (given Suncorp's strength there) and in Ayr, Chinchilla/Miles and Cairns.

3.5 In the local/regional markets for SME banking, I concluded that the acquisition has a real chance of resulting in an SLC in local/regional markets for SME banking in Queensland due to horizontal unilateral effects compared to both the 'status quo' and 'alternative buyer' counterfactuals. Suncorp Bank is a vigorous and effective competitor in SME banking in Queensland, particularly for lending to smaller businesses. Therefore, relative to the 'status quo' counterfactual, the acquisition has a real chance of resulting in an SLC by removing the competition between ANZ, a major with a significant presence in the SME sector, and Suncorp, a strong independent regional competitor that has a strong brand and price proposition. Furthermore, in the 'alternative buyer' counterfactual, the increased scale and resources combined with access to BEN's banking platforms may accelerate Suncorp Bank's growth in the SME market. [redacted] BEN is already in the process of consolidating its technology platforms. Increased scale is likely to give BEN/Suncorp the ability to spread the fixed costs of technological investment over a larger customer base. As such, the BEN/Suncorp entity will be at least as strong a constraint on ANZ as Suncorp is in the status quo counterfactual. Therefore, relative to the alternative buyer counterfactual, the acquisition has a real chance of resulting in an SLC by removing the competition between ANZ, a major with a significant presence in the SME sector, and BEN/Suncorp, a strong independent regional competitor that has a strong brand and price proposition.

Public benefits

3.6 In my first report, while I was not explicitly instructed to comment on the likely public benefits and costs of the acquisition, I was asked to provide my views on the expert reports by Mr. Smith and Dr. Carmichael, which discuss likely public benefits and costs. I summarise my main comments from my first report below.

Operating cost savings

3.7 In my first report, I reviewed Mr. Smith's claimed operating cost savings that are likely to arise from the acquisition, which I noted relied on ANZ's cost synergy estimates in the 'Synergies and one-off costs workbook'.[6] Mr. Smith noted that [redacted] of full run rate synergies are expected within [redacted][7] He estimated NPV of merger-specific net synergies of around [redacted][8] However, at the time of writing, I noted that ANZ did not provide Mr Smith with supporting

[6] Synergies and one-off costs workbook [redacted]
[7] Smith report, para 41.
[8] Smith report, table 5.

evidence to verify its efficiency claims, nor did it disclose its cost savings model, which made its cost savings estimates difficult to verify.[9]

3.8 Of the cost savings identified, I considered that technology rationalisation and elimination of duplicate roles and branches would appear to be a direct cost saving from duplication and as such merger-specific, but some of these cost savings may be achievable by the parties on their own, and there may also be impediments to achieving these savings.[10] In light of Mr. Smith's claim that Suncorp customers could benefit from ANZ's systems, I also considered that some customers would be able to access these benefits without the merger, for example by switching from Suncorp to ANZ.[11]

3.9 In my first report, I agreed with Mr. Smith that the degree of pass-through to consumers will depend on the strength of competition after the acquisition.[12] In particular, in markets where competition was weak already or weakened by the acquisition, the merged entity would be under less pressure to pass on benefits to consumers.

Wholesale funding costs

3.10 In my first report, I considered whether potential wholesale funding cost advantages would likely constitute productive efficiency benefits or not. I did not offer a view on the likely scale of wholesale funding cost advantages, but noted that I had no reason to doubt that they would result from the merger.

3.11 I set out three plausible reasons as to why a reduction in wholesale funding costs might not reflect productive efficiency benefits.[13] These include a change in capital composition – if ANZ is better capitalised (for instance, due to facing higher regulatory capital requirements), then it may face a lower cost of debt, but not a lower overall cost of capital; diversification – if ANZ's assets are more diversified, this may mean there is less risk to those providing wholesale debt funding, but not lower overall expected losses; and implicit subsidy – if ANZ is judged to be "too big to fail", then investors might perceive a higher likelihood of government support in the event of significant stress.

3.12 I then set out analysis of possible implicit subsidy, as this had been raised in Professor King's report.[14] I noted that both S&P's and Moody's ratings of ANZ both incorporate a 2-notch uplift to reflect the likelihood of government support in the event of stress. I highlighted research from the European Central Bank which found that rating actions can have an impact on the price of corporate debt. While this analysis was not definitive, I concluded that it indicated that ANZ enjoyed a higher implicit subsidy than Suncorp Bank, and that this might plausibly constitute a material proportion of the funding advantage that ANZ enjoys over Suncorp Bank.

3.13 I then considered plausible drivers of ANZ's wholesale funding cost advantage that would constitute productive efficiency benefits. These included the reduced likelihood of bank failure, and in particular the frictional costs associated with it; and the possibility that ANZ's wholesale funding cost benefits from superior risk management at ANZ.

[9] Para 10.23-10.24 of my first report.
[10] Para 10.11 of my first report.
[11] Para 10.12-10.14 of my first report.
[12] Para 10.15-10.17 of my first report.
[13] Para 10.30-10.32.3 of my first report.
[14] Para 10.33-10.40 of my first report.

3.14 I concluded that it is likely that some, and potentially a significant proportion, of any wholesale funding cost advantage that ANZ enjoys may be due to factors that do not constitute productive efficiency benefits.

Prudential safety and stability benefits

3.15 I also considered the arguments made in Dr. Carmichael's first report, that the merger would have positive benefits from a systemic risk perspective, because while inherent systemic risk would increase as a result of the merger, the higher capital requirements that would apply to Suncorp Bank, post-merger, would more than offset the increase in inherent risk.[15]

3.16 I gave my opinion that, while the arguments put forward by Dr. Carmichael were plausible, the scale of any such benefits was difficult to judge, and Dr. Carmichael's conclusions were over-reliant on a literal interpretation of APRA's policy intentions with respect to the extra capital that D-SIBs must hold. I therefore concluded that caution should be exercised in weighing any such benefits against any SLC.

[15] Para 10.43-10.54 of my first report.

4. Summary of the Parties' additional submissions

4.1 The Parties' additional submissions cover substantially all points made by the ACCC in its Statement of Preliminary Views ('SOPV'). As such, they cover a number of areas that I have not been asked to comment on. For the purposes of this supplementary report, I propose to discuss the Parties' comments based on the following categories:

1. Market definition;
2. Counterfactual;
3. Substantial lessening of competition: unilateral effects;
4. Substantial lessening of competition: coordinated effects; and
5. Public benefits.

4.2 Since the purpose of this supplementary report is to consider whether there is anything in the new material provided to me after my first report (the bulk of which consists of the Parties' additional submissions) that suggests that I should reconsider the conclusions I reached in my first report, I will generally focus on areas where the Parties have reached different conclusions than I did in my first report. In subsequent sections, I will also discuss other new evidence (i.e. not submitted by the Parties) where relevant.

4.3 The Parties have also submitted new expert reports by Dr. Philip Williams, commenting on market definition and the competitive assessment, Dr. David Howell, commenting on matters of credit ratings, Mr. Mozammel Ali, commenting on funding costs, Mr. Patrick Smith, commenting on the net cost savings created by the Merger, and Dr. Jeffrey Carmichael, commenting on the prudential safety and stability benefits of the merger. I will discuss these reports as and when they are relevant for my assessment, as I did in my first report. For the avoidance of doubt, where I do not comment on a point it should not be taken to mean that I agree.

Market definition

4.4 ANZ continues to argue that all relevant markets are national in scope.[16] To support this claim, it presents evidence that customers in all markets frequently can and do buy banking services from all over Australia, while only a minority have a tendency to favour a bank that has a physical presence in the community. Moreover, it argues that banks with a nationally diversified portfolio of activities are more stable, and that this is attractive to customers.

4.5 ANZ also argues, as it did in the application,[17] that there is no separate product market for agribusiness products.[18] Instead, it proposes a market for commercial banking products, which would include both agribusiness and SME products, but also products sold to large businesses.

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[16] Application, para. 12, and ANZ Response to the SOPV, para. 5.3-5.7.
[17] Application, para. 10.
[18] ANZ Response to the SOPV, para. 5.8-5.11.

4.6 Suncorp also argues for a single product market for commercial banking, which is national in geographic scope.[19] However, both ANZ and Suncorp note that there is a specific product that is only sold to agribusiness customers: Farm Management Deposit Accounts (FMDAs).[20]

4.7 In the context of its discussion of competitive effects in agribusiness, Suncorp said that its "[redacted]"[21] While this seems relevant for the question of geographic market definition, I do not understand Suncorp as having intended to advocate for a regional/local market definition in agribusiness, given the other statements in its response to the SOPV.[22]

Counterfactual

4.8 The Parties have submitted a substantial amount of new evidence to suggest that a BEN/Suncorp merger (i.e. the 'alternative buyer counterfactual') has no real commercial likelihood of occurring.[23] However, I note that the likelihood of the alternative buyer counterfactual is a factual question that I have not been asked to comment on.

4.9 Instead, I will focus on addressing the new evidence on what such a merged BEN/Suncorp entity will look like – in particular, whether it will pose a stronger competitive threat than Suncorp if it continues on as before.

4.10 The Parties have submitted that a BEN/Suncorp merged entity would not create a stronger competitive constraint on ANZ than Suncorp would under the status quo counterfactual. To support this, they point to:

1. **Credit rating impacts**. Suncorp submitted an expert report by Dr. David Howell, finding that [redacted][24]
2. **Funding challenges**. Suncorp submitted an expert report by Mr. Mozammel Ali, finding that [redacted]"

[19] Suncorp Response to the SOPV, para. 173-180.
[20] ANZ Response to the SOPV, para. 5.8.
[21] Suncorp Response to the SOPV, para. 181.
[22] Most notably para. 173 of the Suncorp Response to the SOPV, which summarises Suncorp's views as: "There is a national market for business banking. The underlying products and services are the same regardless of whether they are being supplied to SME, agribusiness or commercial property customers, with the exception of farm management deposit accounts (FMDAs)."
[23] ANZ response to the SOPV, para. 2.3-2.14 and Suncorp response to the SOPV, para. 6-8 and 35-43.
[24] [redacted]

3. **Technology integration**. Suncorp and Bendigo [redacted] which would create significant integration challenges.[25]

4. **Cultural alignment**. Suncorp and Bendigo [redacted] which would reduce their effectiveness as a competitor if they merged.[26]

5. **IRB accreditation.** There is no reason why the merger would lead to BEN/Suncorp obtaining IRB accreditation. Even if BEN achieved IRB accreditation following a merger with Suncorp Bank, and so obtained a capital advantage compared with their current position, that would not materially change its ability to drive competition. Furthermore, [redacted]

6. **The importance of scale.** [redacted][7]

4.11 The Parties also argue that these difficulties make it unlikely that BEN and Suncorp would succeed in agreeing a merger if the ANZ acquisition should not go ahead.[28] However, the likelihood of any counterfactual scenario happening absent the acquisition is a factual matter and I have not been asked for a view on this. My considerations concern the competitive impact of the acquisition relative to the counterfactual scenarios.

Unilateral effects

4.12 ANZ's conclusions on unilateral effects hinge substantially on its conclusions with regard to market definition and the counterfactual.

4.13 In my first report I found no real chance of an SLC due to horizontal unilateral effects in the markets for home loans, transaction accounts, or deposit/term products when assessed against the status quo counterfactual. The Parties' submission that the alternative buyer counterfactual is not more competitive than the status quo counterfactual would, if accepted, imply that there is no SLC due to horizontal unilateral effects in these markets at all.

4.14 Similarly, in my first report I found a real chance of an SLC in the local/regional markets for agribusiness banking and SME banking in Queensland respectively. Given their national market shares, the Parties' submission that those markets are in fact national would, if accepted, imply that there is no SLC.

4.15 Suncorp made one additional point that merits further thought. Discussing the SME market, it said that:

[redacted]

[25] Suncorp response to the SOPV, para. 87-104.
[26] Suncorp response to the SOPV, para. 110-120.
[27] Supplementary statement of Clive van Horen [CEO of Suncorp Bank] dated 17 May 2023, para. 35 and 55-66.
[28] ANZ response to the SOPV, para. 2.14.

[redacted]

4.16 In other words, Suncorp's contention is that it is not as strong a competitor in the SME market as the ACCC suggested in its SOPV.

4.17 In section 7 below, I will discuss my assessment of the horizontal unilateral effects of the merger when assessed with respect to a single market for SME customers, regardless of whether they are agribusinesses. I will also consider the submissions made by Suncorp about its position in the SME market.

4.18 In relation to agribusiness banking, Suncorp submits that its "presence in Queensland and northern New South Wales is due to historical factors",[30] Rabobank and NAB are its main competitors in "initially winning customers",[31] Suncorp does not lead on price in agribusiness banking, and its competitive proposition is based on the relationship service offering which is not unique to Suncorp and is readily replicable.[32] I address these points in section 7 below.

Coordinated effects

4.19 In this area, the main thrust of the Parties' additional submissions concerns the recent trends in competition between the majors, and between the majors and the other banks in Australia.

4.20 ANZ said that "the Productivity Commission's findings from 2018 should not be used as a basis for assessing the proposed acquisition".[33] That is consistent with how I approached the issues in my first report.[34] However, to support this argument ANZ submitted more evidence about developments in the last five years, which I will discuss in this supplementary report.

4.21 Casting these submissions in the terms of my first report, ANZ is arguing:

1. That there has not been coordination in the market in the past, and that the Productivity Commission ('PC') did not find that there had been. (Or, to the extent that it did make such a finding, that this finding was erroneous.[35])

2. That, in any event, competition had strengthened since the PC published its 2018 report, for example because:

    - The major banks have lost market share;[36]

[29] Suncorp response to the SOPV, para. 189, [redacted]

[30] Suncorp response to the SOPV, para 181.

[31] Suncorp response to the SOPV, para 182.

[32] Suncorp response to the SOPV, para 183.

[33] ANZ response to the SOPV, para. 3.2-3.12.

[34] E.g. para. 3.2 in my first report.

[35] ANZ response to the SOPV, para 3.2: "At the time the Productivity Commission carried out its inquiry, ANZ submitted that the evidence did not support the finding that banks have the ability to exercise market power over their competitors and consumers."

[36] ANZ response to the SOPV, para. 3.13-3.15 and supplementary statement of Shayne Elliott [CEO and Executive Director, ANZ] dated 17 May 2023, para. 26.

- The use of brokers has become much more common;[37]
- Changes in technology and consumer preferences have made competition more national;[38] and
- There have been changes in government policy and regulation.[39]

3. That, going forward, there is no propensity towards coordination in the market.[40]
   - The overlap markets are not concentrated and the merger will not materially increase concentration;[41]
   - There is very little symmetry and alignment between Australian banks;[42]
   - While there is multi-market contact between Australian banks, coordination across markets would be complicated, and therefore unlikely to be sustainable;[43]
   - Prices are not transparent and there is no obvious focal point for coordination;[44]
   - Customers are less inert than they were in the past;[45]
   - Customers switch and multi-home;[46]

4.22 Separately, I note that Dr. Williams' supplementary report also criticises Prof. King's analysis of coordinated effects argument for assuming monopoly-like prices.[47] Since my first report did not take the same approach as Prof. King on this point, I will not discuss this issue further.

Public benefits

Patrick Smith's reply report

4.23 Mr. Smith noted in his first report that the net cost savings in the Synergies workbook did not include any separation costs borne by Suncorp Group. In his second report, he was instructed to assume separation costs of $500m spread evenly over three years (FY23-FY25), and stranded costs of $40m per annum in FY24-

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[37] ANZ response to the SOPV, para. 3.32-3.38 and supplementary statement of Shayne Elliott [CEO and Executive Director, ANZ] dated 17 May 2023, para. 55-59. See also the supplementary statement of Clive van Horen [CEO of Suncorp] dated 17 May 2023, para. 17, and the new third-party RFI response that the ACCC received from the Mortgage & Finance Association of Australia (MFAA) dated 26 May 2023.
[38] ANZ response to the SOPV, para. 3.39-3.48 and supplementary statement of Shayne Elliott [CEO and Executive Director, ANZ] dated 17 May 2023, para. 47.
[39] ANZ response to the SOPV, para 3.4, referring to the application at para. 5.64-5.71, and supplementary statement of Shayne Elliott [CEO and Executive Director, ANZ] dated 17 May 2023, para. 8 and 44.
[40] ANZ response to the SOPV, para. 4.4-4.47, discussing and applying the framework of Prof. De Roos that I also discussed in my first report. See also the second expert report of Dr. Williams, para. 67-101.
[41] ANZ response to the SOPV, para. 4.8-4.12.
[42] ANZ response to the SOPV, para. 4.13-4.26.
[43] ANZ response to the SOPV, para. 4.27-4.29.
[44] ANZ response to the SOPV, para. 4.30-4.36.
[45] ANZ response to the SOPV, para. 4.38-4.44.
[46] ANZ response to the SOPV, para. 4.45-4.47.
[47] Second expert report of Dr. Williams, para 12.

FY26. Taking these costs into account, he calculated NPV of merger-specific cost savings of between $[redacted] and [redacted][48]

4.24 In his second report, Mr. Smith also considered the extent to which cost savings would be passed on to consumers in the home loans market by assessing the evidence regarding competition in Australia for the supply of home loans. In his view, ANZ faces – and is likely to continue to face post-merger – effective competition in the supply of home loans, these competitive pressures are not driven by Suncorp, and ANZ has shown it is responsive to these competitive pressures. He therefore concludes that ANZ would face a strong incentive to pass on cost savings to consumers in the form of better quality or lower prices post-acquisition.[49]

4.25 In drawing these conclusions, Mr Smith points to the following pieces of evidence:

1. ANZ has lost market share in home loans in recent years;
2. An increasing proportion of ANZ customers are refinancing, consistent with a market-wide increase in refinancing activity;
3. Suncorp Bank's market share has stayed relatively constant over the past five years;
4. ANZ's switching data indicates customers who switch away from ANZ are more likely to switch to several other banks than Suncorp;
5. Suncorp Bank has consistently had slower turnaround times than many of the other non-major banks;
6. Suncorp Bank's products are not uniquely comparable to ANZ's products in terms of product features;
7. ANZ monitors the home loan prices of [redacted]
8. Suncorp Bank's pricing is not particularly aggressive;
9. ANZ is responding to these competitive pressures by increasingly offering discounts on rates paid by existing customers and has also been competing on price in an effort to acquire new customers;
10. ANZ has factored the prices of third-party competitors into its pricing decisions;
11. ANZ has recently invested in improving its turnaround times in response to a decline in the growth of ANZ's home loan book; and
12. There is no evidence that these competitive responses by ANZ have been targeted at (or driven as responses to) Suncorp Bank.

Synergies

4.26 The Parties submitted a witness statement from Louise Higgins which goes into some detail on ANZ's process of estimating synergies from the proposed acquisition.

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[48] Second expert report of Mr. Smith dated 17 May 2023, para 13-16.

[49] Second expert report of Mr. Smith dated 17 May 2023, para 26.

4.27 I understand these synergies were estimated to "[redacted][50]

[redacted]

4.33 Nonetheless, she considered the "[redacted]"[53]

Wholesale funding costs

4.34 In its response to the SOPV, ANZ states its disagreement with the preliminary views on wholesale funding costs. In particular ANZ disagrees that there is insufficient evidence that there will be a reduction in wholesale funding costs and that these would constitute a public benefit. ANZ also says it is unclear what

[50] Louise Higgins WS p.6, para 20.
[51] [redacted]
[52] Louise Higgins WS, p.17, para 87.
[53] Louise Higgins WS, p.17, para 83.

is meant in the SOPV that any reduction in wholesale funding costs may be offset by increases in other costs; ANZ argues that, if the SOPV is referring to increased costs resulting from higher capital requirements, there is no direct relationship between the reduction in funding costs and the increased costs resulting from higher capital requirements, and in any case that higher capital requirements support greater safety and soundness, as set out in both of Dr. Carmichael's reports.[54]

4.35 ANZ points to, what it considers, the extensive evidence submitted, including the statement from Mr. Adrian Went, to argue that, while it is not possible to precisely quantify the difference between Suncorp Bank's funding costs with and without the proposed transaction, the evidence supports the conclusion of a material reduction. ANZ also states the argument, made in Professor King's report, that wholesale funding cost reductions constitute a transfer of risk from the private sector to taxpayers is "misplaced". ANZ states the reduction in wholesale funding costs that Suncorp would enjoy post-merger arise from being owned by ANZ, not from being larger. ANZ further notes, as set out by Dr. Carmichael, its view that the merger will lead to greater safety and soundness.[55]

Jeffrey Carmichael's reply report

4.36 Dr. Carmichael's second report reiterates the conclusions of his first report – which include that, while there would be an increase in systemic risk arising from the merger, these would be more than offset by the increased capital requirements on Suncorp Bank from being part of a domestically systemically important bank (D-SIB).[56] The second report highlights that the capital requirements on D-SIBs are 59% higher than those applied to other banks, and notes that, while there is not a direct mapping between capital adequacy and risk of failure, for any given risk profile, more capital lowers the risk of failure. Carmichael says that to argue that an increase in Suncorp bank's capital requirements would not lead to a significant reduction in its risk of failure would be to argue that APRA has imposed huge costs on D-SIBs for no material benefit.[57] The second report goes on to provide further arguments on safety and soundness.

4.37 Dr. Carmichael's second report argues that there are various means by which the merger will improve Suncorp Bank's safety and soundness, including more intensive oversight by APRA, improved diversification of assets, reduction in liquidity risk, and cost efficiencies leading to greater resilience in stress periods.[58]

4.38 Dr. Carmichael's second report builds on his first report by setting out the four measures of a bank's systemic importance, and considering the impact of the transaction on each of these. The four measures are size, interconnectedness, substitutability and complexity.[59] The second report notes that the size of ANZ would increase by approximately 7% as a result of the transaction, but that, on the basis of publicly available evidence, there would be very little change in the other three measures. Therefore, while APRA have not made their weightings of the four indicators public, it is likely that the overall increase in systemic risk is materially below 7%. The second report states that this compares with a 60% increase in Suncorp Bank's capital requirements, while acknowledging that these figures are not directly comparable.[60]

[54] Para 9.89-9.98, ANZ's response to the SOPV
[55] Para 9.99-9.101, ANZ's response to the SOPV
[56] Para 2.9, Dr. Carmichael's second report.
[57] Para 2.12-2.16, Dr. Carmichael's second report.
[58] Para 2.20, Dr. Carmichael's second report.
[59] Para 3.3(g), Dr. Carmichael's second report.
[60] Para 3.3(j)-(k), Dr Carmichael's second report.

4.39 Dr. Carmichael compares the proposed transaction to an acquisition of Suncorp Bank by Bendigo Adelaide Bank. He argues that, while such an alternative merger may only have a small negative effect on safety and soundness, it would result in no mitigation in the way of higher capital requirements, and therefore that in a direct comparison of the two mergers, the proposed merger is unambiguously superior from a safety and soundness perspective.[61]

[61] Para 3.8, Dr. Carmichael's second report.

5. Market definition

5.1 In this section I will evaluate the conclusion from my first report, that there are separate relevant product markets for agribusiness banking and SME banking. In so doing, I will first consider Dr. Philip Williams' approach to market definition, and then I will make some case-specific points.

5.2 The established approach to market definition among competition law practitioners is to start from the narrowest plausible market where the Parties both operate, and to consider expanding the relevant market by applying the hypothetical monopolist test.[62] For example, in the well-known case of Singapore Airlines v. Taprobane Tours WA Pty Ltd, both the court below and the full Federal Court started from the market for travel to the Maldives, and then asked themselves whether travel to other destinations were sufficiently close substitutes that the market should be expanded.[63]

5.3 Dr. Williams' additional expert report, like his initial report, takes the opposite approach and attempts to define the market by starting from a very wide market definition and then narrowing. The conceptual reasons why this approach is likely to lead to error are discussed in para. 8.9-8.17 of my first report. Taking into account measures of concentration or observations about "competition problem[s]"[64] when defining markets makes the exercise circular. Instead, the correct approach is to focus on identifying the "goods or services that are substitutable for, or otherwise competitive with" the goods and services provided by the Parties.[65]

5.4 I agree with Prof. King's observations on this point, including his observations in para. 8-14 of his second report.

Product market definition: Commercial banking

5.5 When it comes to the specific question of whether there is a single market for commercial banking rather than separate markets for agribusiness banking and other SME banking, the additional evidence provided by the Parties mostly focuses on the supply side rather than the demand side. That is, it focuses on the perspective of the bank rather than the perspective of the customer. While supply-side considerations are clearly relevant,[66] they are generally considered of secondary importance relative to demand-side considerations.[67] Moreover, the most relevant question from a supply-side perspective is not how the product is typically sold,[68] but how other (potential) suppliers would react to a small but significant non-

[62] See the ACCC merger authorisation guidelines, para. 6-12-6.14 and the ACCC merger guidelines, para. 4.10-4.27. A similar approach is taken by competition authorities throughout the world, e.g. New Zealand Commerce Commission Mergers and Acquisitions Guidelines, para. 3.15-3.24, US DOJ and FTC horizontal merger guidelines, chapter 4, UK Competition and Markets Authority Merger Assessment Guidelines, chapter 9, and European Commission notice on the relevant market (para. 13-24 of the 1997 version, and para. 24-45 of the draft new version that the Commission consulted on in November last year).

[63] Singapore Airlines Limited v Taprobane Tours WA Pty Ltd, [1991] FCA 621; (1992) 14 ATPR 41-159 (1991) 104 ALR 633 (1991) 106 ALR 115 (1991) 33 FCR 158 (12 December 1991), discussing the judge's rejection of this argument at the end of para. 15 and the court's own assessment in para. 57.

[64] Second expert report of Dr. Williams, para. 15.

[65] See s. 4E Competition and Consumer Act 2010 (Cth).

[66] ACCC merger guidelines, para. 4.23-4.26.

[67] See Prof. King's observations in para. 18-21 of his second report.

[68] Eg. ANZ response to the SOPV, para.5.8 and 5.11 or Suncorp response to the SOPV, para. 175.

transitory increase in price ('SSNIP'). Other suppliers may well react to a SSNIP by changing how the product is sold.

5.6 However, ANZ also makes a demand-side point that is worth considering more carefully:

"Fundamentally, the core banking needs of general commercial, and agribusiness customers overlap substantially, in respect of needing core debt, transaction accounts and asset finance. The specific features that agribusiness customers seek in their banking products, particularly flexibility around core debt, may be and are accommodated in general commercial banking products. [redacted]" [69]

5.7 Suncorp makes a similar point:

"While having a direct relationship with a relationship manager is considered important by some business customers [both in the agribusiness segment and in other segments], business customers and banks, depending on the sophistication of their digital capabilities, interact with each other digitally and over the phone, and banks compete with each other on pricing and non-pricing factors on a national basis." [70]

5.8 This is an issue that I covered in some detail in my first report (para. 5.54, in particular). There is no question that the needs of agribusiness customers are to some extent unique to that sector, and that it is likely that they would be hesitant to switch to a bank that does not have agribusiness expertise. And equally, while agribusiness customers and other SME customers value relationship banking, it is likely that many SME customers would find it more of a "nice to have" than an essential requirement. [71]

5.9 However, without direct evidence from agribusiness customers themselves, e.g. in the form of a survey or witness statements, it is difficult to predict how agribusiness customers would respond to a SSNIP, notably whether they would be willing to consider a bank that had expertise in commercial banking but not agribusiness banking. [72]

5.10 Given that the evidence on supply-side substitution is mixed,[73] with at least some evidence that a commercial bank could start selling the kinds of products that agribusiness customers need fairly quickly, I have also considered an alternative market definition that includes SMEs regardless of whether they are agribusinesses. This is in addition to the approach I took in my first report, which involves looking at agribusiness banking and other SME banking separately. In both cases I consider that the relevant market excludes larger business customers. I will discuss my competitive assessment of these markets in section 7 below.

[69] ANZ response to the SOPV, para. 5.10, referring to the witness statements by Mark Bennett [ANZ head of agribusiness] and Guy Mendelson [ANZ managing director, business owners portfolio], as well as [redacted]
[70] Suncorp response to the SOPV, para. 178.
[71] E.g. [redacted]
[72] [redacted] note that individual relationship managers appear to specialise in agribusiness customers, suggesting that that expertise is not easy to acquire and is valued by their employers and their customers.
[73] See my first report, para. 5.57-5.61.

Geographic market definition: SMEs and agribusiness

5.11 On geographic market definition the Parties' new submissions also tend to focus on the supply side. They present no evidence on the numbers of customers that would be willing to buy SME or agribusiness banking services from a bank without a presence in the community, or the number of customers in the market already doing so.

5.12 Describing the customer's location as simply one of many "customer-specific circumstances" that is relevant to a pricing decision, as ANZ does in its response to the SOPV,[74] does not address the right question. The objective is to identify "the geographic space in which rivalry and competition take place".[75] And the evidence shows that many customers in the SME and agribusiness markets value having a bank with a presence in the community, while banks clearly think about their competitive strategies on the basis of individual regions where they choose to compete or not, and where they choose to compete more or less aggressively.[76] This implies demand and supply conditions that vary from one local area or region to another.

5.13 [redacted] a plausible pattern: customers in rural Queensland may well be hundreds of kilometres away from their bank, but they will not be served from the other side of the state. A customer in Weipa may well look as far as Cairns for a bank, but it is unlikely that they would consider a bank whose only presence in Queensland was in Brisbane. Moreover, even within these larger catchment areas the number of visits that a customer receives from their relationship manager will be reduced if they are further away.[78] In summary, a regional/local geographic market for agribusiness banking may well be substantially larger than a single major town. However, although the additional evidence on drive times is helpful, it is not comprehensive so I am unable to conclude on the geographic scale or extent of markets in this case.[79]

5.14 I agree with ANZ that a nationally diversified portfolio of activities will tend to make a bank more stable.[80] However, I do not agree that ANZ has shown that this is a significant effect, or that customers – and in particular SME and other agribusiness customers[81] – pay attention to or value this indicator of stability. The examples that ANZ gives of providing relief packages simply show that customers might value having a bank that is big enough to undertake such efforts.[82] I note that such support is not limited to banks that are highly

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[74] ANZ response to the SOPV, para. 5.5.

[75] ACCC merger guidelines, para. 4.6.

[76] Eg. Suncorp Response to the SOPV, para. 181, [redacted] See ANZ response to the SOPV, para. 5.4 and [redacted] Prof. King makes a similar observation in para. 76 of his second report.

[77] [redacted]

[78] [redacted]

[79] [redacted] provided an estimated average distance of [redacted] However, typically the catchment area of a shop or bank branch is defined based on the 80 percentile, not the average. See CMA (2017), Retail Mergers Commentary, para. 2.20. For the same reason, a single example of a relationship manager driving for [redacted] is not dispositive.

[80] ANZ response to the SOPV, para. 5.3 and [redacted]

[81] ANZ made this argument specifically in the context of commercial banking. ANZ response to the SOPV, para. 5.3-5.7.

[82] ANZ response to the SOPV, para. 5.7.

geographically diverse (i.e. the major banks). For example, during the Queensland floods in 2019, Suncorp's agribusiness managers "remained close" to affected agribusiness customers and provided financial support, including an emergency financial assistance package.[83] Indeed [redacted][84]

5.15 Therefore, I have not changed my view that the relevant geographic market for SME and agribusiness banking is local/regional. However, the evidence on drive times of agribusiness relationship managers points to the relevant geographic markets for agribusiness being substantially larger than individual towns and their surrounding local areas.

5.16 As set out in my first report, for non-agribusiness SME banking there are good reasons to believe that the relevant market may be limited to each individual town and its surrounding area. For example, some SMEs will want to deposit their cash at the end of the working day, and they will not be willing to travel hundreds of kilometres to do so.

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[83] Suncorp, 12 February 2019, "Supporting north west Queensland communities": https://www.suncorpgroup.com.au/news/features/april-cavanagh-story

[84] [redacted]

6. Alternative buyer counterfactual

Credit rating impacts

6.1 In my first report, I noted that [redacted][6]

6.2 In a [redacted]

6.3 The Parties have submitted an expert report by Dr. Howell, which shows that [redacted]

6.4 On the basis of the new evidence above, it appears that there is a real chance of the merged entity receiving at least a one-notch uplift from [redacted] (relative to BEN's current rating), while an uplift from [redacted] remains more uncertain. However, it remains likely that the merged entity will have a credit rating lower than Suncorp Bank's current credit rating.

6.5 I discuss the likely magnitude of the funding impact arising from this credit rating change in the next section. In particular, I discuss whether this change in credit rating is likely to result in *net* costs or benefits for BEN/Suncorp (in the alternative buyer counterfactual scenario) relative to BEN operating independently (in the factual scenario).

Funding challenges

6.6 In my first report, I noted BEN's estimate that [redacted][89] I also noted that [redacted]

85 [redacted]

86 See my first report, para 7.57.

87 [redacted]

88 [redacted]

89 [redacted]

[redacted] Beyond this, there was relatively little evidence (e.g. in the form of financial modelling) of the impact of the change in credit rating on the merged entity's funding costs.

6.7 The Parties have since submitted additional evidence that [redacted] [91] For example, according to Steve Johnston, [redacted] a BBB+ rated entity would also be subjected to significantly more costly wholesale funding.[93] In his view, "Other than when funding markets are orderly and liquid, I believe there is likely to be [redacted]

Expert report of Mozammel Ali

6.8 The Parties also submitted an expert report by Mozammel Ali, who was instructed to assume the following credit ratings for BEN under the alternative buyer counterfactual: [redacted] [95] In Mr. Ali's view, if Suncorp Bank were sold to BEN,

1. [redacted]
2. [redacted] [96]

6.9 [redacted] [98]

6.10 [redacted] [9]

[90] [redacted]
[91] Suncorp Bank response to SOPV, para 8(b).
[92] Steve Johnston's second witness statement dated 17 May 2023, para 64-71.
[93] Steve Johnston's second witness statement dated 17 May 2023, para 71.
[94] Steve Johnston's second witness statement dated 17 May 2023, para 12.
[95] Expert report of Mozammel Ali, para 38.
[96] Expert report of Mozammel Ali, para 48.
[97] Expert report of Mozammel Ali, para 49.
[98] Expert report of Mozammel Ali, para 50.
[99] Expert report of Mozammel Ali, para 67.

6.11 Mr. Ali summarises his estimates of the aggregate incremental cost of wholesale funding under the status quo and alternative buyer counterfactuals in Table 4.1 of his report (reproduced below).

[redacted]

Commentary on funding costs

6.12 In my opinion, it is uncontroversial that a lower credit rating might be expected to lead to higher funding costs, or that the impact of credit ratings on banks' funding will depend on the macroeconomic environment: as Clive van Horen explains, pointing to the recent bank failures in the US and Europe, "in good times, the importance of a strong credit rating is more about relative pricing of funding; in dislocated markets, a strong credit rating can be existential and, even then, cannot save a bank from a loss of confidence in its funding and depositor base".[100]

6.13 As Steve Johnston and Mr. Ali both acknowledge, during periods of stable market conditions (or as Steve Johnson puts it, "when funding markets are orderly and liquid"), [redacted] the cost of such funding will likely be higher for a bank with a lower credit rating (as Suncorp Bank is likely to be under BEN's ownership), compared to either Suncorp Bank in the status quo counterfactual or under the Proposed Acquisition. The question is one of magnitude.

6.14 I note that Mr Ali's estimates [redacted] annually) [redacted] Nonetheless, the magnitude of these funding cost increases remains relatively small compared to, for example, the potential capital release from achieving IRB accreditation, which I explain in more detail below. It is not clear to me that increased funding

[100] Clive van Horen's second witness statement dated 17 May 2023, para 70.

costs of this magnitude would mean that a merged BEN/Suncorp entity would not be an effective competitor going forward.

6.15 Furthermore, I note that while the lower credit rating for Suncorp Bank will likely lead to funding dis-synergies, the net result on funding costs for the *merged entity* as a whole may be beneficial *if* the merged entity receives a credit rating uplift due to sovereign support (which, as noted above, is plausible at least for [redacted][101] This seems to be in line with Suncorp Bank's previous own modelling – as noted earlier, [redacted]

6.16 As for the likelihood of significant credit market volatility or market dislocation, I note that the Parties' submissions suggest this is relatively low in Australia. As Suncorp Bank notes in its response to the SOPV in relation to the bank failures of SVB, Credit Suisse, and First Republic Bank, "the potential for similar circumstances to arise in Australia is generally considered to be low".[104] Indeed, Clive van Horen noted that "the loss of confidence by investors and depositors in offshore markets has had modest impacts on Australian banks", and he also cited a speech by APRA Chair John Lonsdale indicating that Australia's regulatory requirements "give us confidence that the banking system here is among the best equipped in the world to handle a crisis".[105]

6.17 I note Mr Ali's estimates that [redacted]

6.18 [redacted]

101 [redacted]
102 [redacted]
103 [redacted]
104 Suncorp response to SOPV, para 32.
105 Clive van Horen's second WS dated 17 May 2023, para 18(b).
106 [redacted]
107 [redacted]

6.19 In summary, my view on funding cost challenges is that it will make a modest difference to BEN/Suncorp's ability to compete. Suncorp Bank will likely face higher funding costs under BEN ownership compared to the status quo counterfactual or the factual. However the net impact on the merged entity is unclear (and potentially positive) *if* it gets an uplift due to sovereign support. Furthermore, any impact on funding costs will likely be outweighed by other factors such as increased scale and IRB accreditation which have a greater bearing on BEN/Suncorp's ability to compete.

Technology integration

6.20 As explained in my first report, I understand that BEN is currently undertaking a technological transformation, with the aim to move from 7 core banking systems to 1, 10 brands to 3, and from 19.9% of its applications being in the cloud to 50% by FY24.[108] I was instructed to assume that a combined BEN/Suncorp would continue investing in this transformation process following any merger. [redacted]

6.21 The Parties have since submitted evidence that BEN's efforts to integrate its core banking systems present [redacted][110] According to Clive van Horen, [redacted][12]

6.22 The Parties also submitted a witness statement by Adam Bennett [CIO, Suncorp Group] dated 16 May 2023 which makes similar points on the challenges and financial resources needed to integrate BEN and Suncorp's systems. In his view, it would take:

1. [redacted] years for core banking systems replacement / consolidation;
2. [redacted] years (which could occur in parallel to the above) for de-integration and re-hosting of Suncorp Bank; and
3. A further [redacted] years for migration of Suncorp Bank onto the shared core banking system.[113]

6.23 In my view, it is difficult to judge the reliability and accuracy of these claims, which are based on public information rather than internal knowledge of BEN's current progress in its technological transformation journey.

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108 See Bendigo, "Results Presentation for the half year ended 31 December 22", 20 February 2023, [redacted]

109 [redacted]

110 [redacted]

111 Clive van Horen's second WS dated 17 May 2023, para 31.

112 Clive van Horen's second WS dated 17 May 2023, para 32-39.

113 Adam Bennett's WS dated 16 May 2023, para 46.

6.24 [redacted] BEN has also submitted that it has successfully consolidated four of its banking platforms and is making swift progress with its transition to cloud-based applications.[117] According to BEN, it has tested the scalability of its core banking platform and confirmed it can accommodate a significance increase in customers (well beyond the combined number of BEN's and Suncorp Bank's existing customers) without any drop in performance.[118]

6.25 In my opinion, it is not controversial that technology integration is highly complicated, and involves uncertain timescales and execution risks. This also applies to any integration between ANZ and Suncorp Bank. As I noted in my first report, it has taken nearly 15 years for Westpac to get all of its customers on to the same banking system post-merger.[119]

6.26 My focus, however, is on whether a merged BEN/Suncorp entity will offer stronger competition in the alternative buyer counterfactual relative to the factual. I make four points on this here.

1. First, it is likely that BEN/Suncorp will be a stronger competitor once their technology platforms are integrated, notwithstanding the uncertainty around timescale and costs involved.

2. Second, a BEN/Suncorp merger may *aid* technology integration by allowing the merged entity to spread fixed costs over a larger customer base – for example, [redacted] This would allow the merged entity to justify making greater investments (e.g. in technology) as the investment case is more favourable. [redacted][23] Shayne Elliott also highlights “[redacted].[124]

3. Third, technology integration may not be needed to realise some of the competitive benefits of the merger – for example, there could be scale benefits from being able to spread marketing costs over a larger base or a greater ability to attract more deposits due to greater perceived safety of the bank. As ANZ recognises in its response to the SOPV, “[redacted]

114 [redacted]
115
116

117 BEN submission dated 30 June 2023, para 2.6, 2.8.

118 BEN submission dated 30 June 2023, para 2.10.

119 Afr.com, April 2023, “ANZ could spend years tangled in Suncorp integration”: https://www.afr.com/companies/financial-services/anz-could-spend-years-tangled-in-suncorp-integration-20230410-p5czbd

120 [redacted]
121
122
123
124

[redacted].

4. Fourth, BEN has significant experience with technological integration already.[126] This will tend to reduce the risk of unanticipated challenges arising post-merger.

6.27 In summary, my view on technology integration is that while there is undoubtedly some risk, it does not mean that BEN/Suncorp could not be an effective competitor going forward. While I agree with the Parties' submissions that there are likely substantial costs and challenges involved, I also note that greater scale may provide greater resources for technology transformation.

Cultural alignment

6.28 The Parties have submitted that a combined BEN/Suncorp entity would face challenges due to divergent risk appetites between BEN and Suncorp Bank and significant risks to brand and reputation that would result from trying to implement brand and culture alignment.[127] Specifically, [redacted][29]

6.29 While I agree that brand and cultural alignment is a significant challenge for merging businesses (and of course these challenges exist for an ANZ/Suncorp merger as well), it is not clear to me that the scale and likelihood of these challenges are material enough to mean that a merged BEN/Suncorp entity could not be an effective competitor, particularly given that BEN and Suncorp are both regional, non-major banks which may make their culture and branding more similar. I have also not seen evidence on how BEN would approach brand and cultural alignment under such a merger, or its plans for the offerings/product lines that it currently offers but Suncorp does not, to be able to comment on the likelihood and extent of such challenges.

IRB accreditation

6.30 I have reconsidered the potential impact of the combined BEN/Suncorp entity achieving advanced IRB accreditation on its strategy or ability to compete, [redacted]

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[125] ANZ response to the SOPV, para 9.27(b).

[126] BEN submission dated 30 June 2023, para. 2.6-2.11.

[127] [redacted]

[128] Suncorp response to the SOPV, para 46(e).

[129] Suncorp response to the SOPV, para 46(e), 110-120.

'Day one' benefits – capital release

6.31 The [redacted][130] states the Bank's assessment to be that [redacted]

6.32 [redacted]

6.33 [redacted] PD models developed by banks sit on a spectrum of rating philosophies, ranging from Through The Cycle (TTC) models; which produces PD estimates (and hence Risk Weighted Assets estimates) insensitive to the economic cycle, to Point-in-Time (PiT) models; in which PD estimates are cyclical. Most bank models are of a "hybrid" nature, sitting somewhere on the TTC/PiT spectrum. Generally, TTC models tend to generate higher 'steady state' PDs and RWAs.

6.34 There is an open question as to the appropriate level of cyclicality in PD models, with APRA recommending that ADIs avoid designing models with "excessive procyclicality".[132] I note that prudential regulators in other jurisdictions have adopted a similar approach.[133] APRA's guidance in this matter states that "there is a trade-off [of excessive procyclicality] with risk sensitivity and [ADIs should] strike an appropriate balance between the two objectives".[134] While there is no clear requirement on the extent of cyclicality that APRA would deem to be appropriate, it is clear that APRA does not intend for ADIs to build purely TTC or PiT models.

6.35 [redacted]

6.36 [redacted]

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130 [redacted]

131 [redacted]

132 APRA Prudential Practice Guide APG 113 Capital Adequacy: Internal Ratings-based Approach to Credit Risk, paragraph 70: https://www.apra.gov.au/sites/default/files/2022-12/Prudential%20Practice%20Guide%20-%20APG%20113%20Capital%20Adequacy%20Internal%20Ratings-based%20Approach%20to%20Credit%20Risk.pdf

133 For example, see the UK PRA's 2017 policy paper on residential mortgage risk weights, which imposed a 30% cap on how cyclical UK banks' residential mortgage PD model estimates could be: https://www.bankofengland.co.uk/prudential-regulation/publication/2016/residential-mortgage-risk-weights

134 APRA Prudential Practice Guide APG 113 Capital Adequacy: Internal Ratings-based Approach to Credit Risk, paragraph 70: https://www.apra.gov.au/sites/default/files/2022-12/Prudential%20Practice%20Guide%20-%20APG%20113%20Capital%20Adequacy%20Internal%20Ratings-based%20Approach%20to%20Credit%20Risk.pdf

135 [redacted]

[redacted]

6.37 Recent public disclosures by BEN put its RWA base at c.$37bn as at March 2023.[136] This reflects the implementation of the new APS 112 standards which I referred to in my first report [redacted]

6.38 I maintain my position in my first report that IRB accreditation is likely to lead to a [redacted] in RWAs for BEN to the extent that it results in a release of capital even in the presence of a higher % capital requirement. However, [redacted]

6.39 With regard to Suncorp, it is difficult to conclude on the precise day-one impact on its RWAs and capital position. [redacted] However, the evidence on average risk-weights I referred to in my first repor [redacted] lead me to conclude that it is more likely than not that Suncorp will receive some day-one capital benefit. I have seen no evidence to suggest that Suncorp's loan book or lending practices are sufficiently different for its experience of IRB accreditation to be markedly different from the rest of the industry.

Effect on BEN/Suncorp's incentives and ability to compete

6.40 In my initial report, I referred to the impact IRB accreditation could have on the dynamics of competition. In particular, I noted that accreditation could allow BEN/Suncorp to price more competitively in certain segments of the market. However, I did not consider to what extent the prices offered by BEN/Suncorp would fall in response to the lower cost of capital it faced, and how much it might instead accrue to the bank's shareholders through an increase in net interest income.

6.41 [redacted]

136 Bendigo and Adelaide Bank Basel III Pillar 3 disclosures as at 31 March 2023: https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/regulatory-disclosures/2023/31-march--basel-iii-pillar-3-disclosures-prudential-standard-aps-330.pdf

137 [redacted]

138 [redacted]

[redacted]

6.42 [redacted]

6.43 It is clear that BEN would [redacted] This is essential if it intends to establish itself as a credible long-term competitor in the sector, and is what its shareholders would expect. While [redacted] my conclusion remains as in my first report. I consider that there is a real chance that IRB accreditation would enable the merged entity to become a disruptive competitor. BEN would have the incentive and ability to use this benefit to pursue a strategy of price competitiveness in certain market segments, given its objective to boost its market share.

[redacted]

Scale

6.45 There is limited new evidence on scale benefits. The Parties submit that a merged BEN/Suncorp entity would [redacted] [144] According to ANZ, it does not know what the minimum viable scale is in banking but it contends that it is going up over time and that it is more than 5%.[145]

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139 [redacted]

140 [redacted]

141 [redacted]

142 [redacted]

143 [redacted]

144 [redacted]

145 ANZ oral submission to the ACCC dated 16 June 2023, page 8.

6.46 By contrast, [redacted][146] I note that a merged BEN/Suncorp entity would have [redacted] market share in the national market for home loans (Table 6 of my first report).

[redacted]

Summary of alternative buyer counterfactual

6.48 In summary, I have not seen evidence that fundamentally changes my view set out in my first report. I still consider that there is a real chance that the merged BEN/Suncorp entity could be a more effective competitor in the alternative buyer counterfactual than BEN alone would be in the factual scenario, and particularly so if it attains IRB accreditation.

6.49 The Parties' submissions (particularly on the impact of credit rating changes and funding costs) compare BEN/Suncorp with the scenario where Suncorp Bank remains part of Suncorp Group, to make the point that the alternative buyer counterfactual has no commercial likelihood. I have not been asked to give my view on this question.

6.50 Instead, the relevant question for this report is whether BEN/Suncorp will be a stronger competitor than BEN as a standalone entity (i.e. comparing the alternative buyer counterfactual to the factual), and as secondary matter, whether BEN/Suncorp together provides a greater competitive constraint on ANZ (and other major banks) in the alternative buyer counterfactual than BEN and Suncorp Bank would do separately in the status quo counterfactual.

6.51 Comparing the alternative buyer counterfactual to the factual, my view is that:

1. If BEN/Suncorp is not subject to the Major Bank Levy, then it will likely have the same credit rating as BEN. This will result in a credit rating downgrade for Suncorp Bank (as it loses the rating uplift from group support), which will lead to funding cost dis-synergies for the merged BEN/Suncorp entity as a whole as BEN will need to source funding for Suncorp Bank at a higher cost. BEN previously estimated this funding dis-synergy to be [redacted] while Mr. Ali has estimated it to be higher at [redacted] annually.
2. If BEN/Suncorp is subject to the Major Bank Levy, there is a real chance of the merged entity receiving at least a one-notch uplift from [redacted] while an uplift from [redacted] remains more uncertain. If BEN/Suncorp receives a one or two-notch credit rating uplift relative to BEN's current credit rating, the net result on funding costs for the merged entity as a whole is unclear.
3. However, in my opinion, funding costs have less of an impact on BEN/Suncorp's ability to compete than increased scale (as explained above and para 7.53-7.56 of my first report) and IRB accreditation (as explained in my first report and further above).
4. On the basis of the new evidence explained above, the benefits from IRB accreditation are potentially greater compared to my assessment in my first report. However it also appears that a portion of the benefit from IRB accreditation would be used to rebuild profitability rather than compete for market share.

146 [redacted]
147 [redacted]

Nonetheless I remain of the view that the net impact of IRB accreditation would be to strengthen BEN/Suncorp's competitive position.

7. Competitive assessment: Horizontal unilateral effects

7.1 In this section I will reflect on Suncorp's submissions regarding its position in the SME market. Subsequently, I will discuss the effects of the merger on an SME banking market that includes agribusiness. As in my first report, I will discuss Queensland not because it is the correct geographic market, but because it is an available proxy for the situation in local/regional markets.

Horizontal unilateral effects in the market for SME banking

Market overview

7.2 In its response to the SOPV, Suncorp highlighted some evidence showing that its position in the SME market was less strong than it believed the ACCC had suggested.[148]

7.3 The areas where Suncorp says it is struggling are quite specific. They basically amount to [redacted].[149] However, given those challenges, Suncorp seems to capitalise on its comparative strengths, offering its SME customers a more tailored, personalised service, in contrast with the more "industrialised" model that the majors use.[150]

7.4 For example, [redacted]

[redacted]

7.5 While [redacted], there may be differences in the approach to service.

7.6 [redacted]

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[148] Suncorp response to the SOPV, para. 189 [redacted]

[149] Suncorp response to the SOPV, para. 189

[150] [redacted]

[151] [redacted]

[152] [redacted]

[153] [redacted]

[redacted]"[154] Clive van Horen acknowledges that there are "customers who choose to bank with Suncorp because it is a non-Major bank".[155] BoQ also notes that "Regional banks often perform better overall in customer care and service levels than the majors."[156]

7.7 In contrast, ANZ submits that customers "prefer conducting their banking through digital means", and technological innovations can "reduce (and often eliminate) the need to meet a relationship manager face-to-face to obtain a product".[157] According to Judo Bank, [redacted].[158] As a result, it considers that "anything that will … further compound and accelerate the industrialisation of specialised SME lending, making it more challenging for SMEs to access finance generally in this country (and particularly in Queensland) may result in substantial detriment to small business and by extension, consumers."[159]

7.8 In my opinion the SME banking market will include both customers who prefer digital banking (which may have advantages such as lower pricing and faster turnaround times) and those who prefer a personal touch (which might also involve local or face to face contact). While the market may be shifting towards greater digitalisation/automation over time, Suncorp remains an important competitor when it comes to customers who value a more bespoke service, e.g. SME customers who have somewhat unusual banking needs.

Assessment

7.9 In order to explain how this might affect my assessment, it is useful to distinguish between two versions of the theory of harm.

- First, a narrow version that focuses on the loss of competition between the Parties: After the merger prices will rise and quality (including service levels and branch presence) will fall, because ANZ and Suncorp will internalise diversion to each other and therefore set higher prices and lower quality.
- Second, a broader version that focuses on the likely changes in how Suncorp will be run, post-merger: After the merger Suncorp will adopt more of an "industrialised" model that emphasises digitisation and turnaround times, to the detriment of those customers who currently rely on its more "personalised" approach, unless other banks can fill that gap.

7.10 In terms of the narrow version of this theory of harm, on the face of it, Suncorp (and BEN/SUN) is not a very close competitor to ANZ, since their business models are quite different. Instead, ANZ competes more closely with the other majors, while Suncorp competes more closely with the other regional banks. Under the narrow version of this theory of harm I would probably only be concerned if there was a local area where ANZ and Suncorp are both present and where, after the merger, there were only three or fewer competitors left.

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[154] [redacted]

[155] Clive van Horen WS dated 25 November 2022, para 129.

[156] BoQ submission dated 23 February 2023

[157] Application, para 27-29

[158] [redacted]

[159] Judo Bank submission dated 7 February 2023.

7.11 In those markets I would expect to see an increase in prices for products that have bespoke prices or discounts, and I would expect to see a deterioration in service quality. Such a deterioration in service quality can range from branch closures (while recognising Suncorp's commitment not to close branches in Queensland for a period following the merger) to having fewer customer-facing employees in the branch.[160]

7.12 Table 7 of the Application shows the number of competitors in rural and regional areas where both Parties are present. This indicates that there are four or more other banks present in each area. However I also note that the Table counts Westpac and St George separately, and that not all the banks listed necessarily offer SME banking services (for example Rabobank primarily serves agribusinesses rather than SMEs more broadly). Furthermore it is not clear that the geographic areas shown in the Table constitute relevant markets. Since I do not have sufficient data to define local markets, I cannot rule out that there are one or more local markets where there will be a real chance of an SLC because currently they are served by ANZ, Suncorp, and only one or two other banks. However the evidence I have seen does not suggest that this is very likely to be the case.

7.13 However, my first report relied to some extent on the broader version of the horizontal unilateral effects theory of harm in the SME market. Under this approach, it is because Suncorp is different that its acquisition by ANZ might have negative impacts for customers. Suncorp and BOQ appear to be the main SME banks in Queensland that offer a less "industrialised" model,[161] and so losing one of those could represent a lessening of competition.

7.14 So the questions to consider are:

1. What proportion of SME customers prefer a more personalised, "less industrialised" approach to banking?

2. What will ANZ do to Suncorp's approach in the SME market, post-merger?

3. How will other banks respond to any change?

7.15 It is unclear what proportion of SME customers prefer a more personalised, less "industrialised" approach (and would therefore be harmed if ANZ decides to move Suncorp Bank away from this approach post-acquisition) as opposed to a more digitised service model. In my view it is likely that this group of customers is shrinking. This is part of a wider trend across industries and countries, where customers are increasingly comfortable with a more automated service (examples include the rise of online shopping and self-checkout in supermarkets). In the Australian banking sector specifically [redacted][163] are also evidence of this. Nonetheless, in my view it is likely that that group for the time being is a meaningful segment of this market. This is consistent with the evidence that

[160] While ANZ has committed not to close any Suncorp branches for three years, it made no such commitment with respect to its own branches. Moreover, as discussed in section 4.E of my first report, the relevant timeframe for assessing the competitive effects of the merger extends well beyond that three year period, particularly where such effects are clearly foreseeable.
[161] Other banks, including Judo Bank and BEN, are also present in the market but their market shares are much lower (see Table 2 below).
[162] See Tables 21-25 in my first report.
[163] [redacted]

Suncorp remains a significant player in the market[164] and Judo Bank (which adopts a version of this approach, albeit without branches) [redacted][165]

7.16 There is relatively little direct evidence on what ANZ intends to do with Suncorp in the medium-term future. It has committed not to close any Suncorp Bank branches in Queensland in the first three years, but it has made no commitments beyond that, nor has it made commitments about the staffing of those branches. According to ANZ, if it stopped offering relationship-managed services to customers that value such services following the Proposed Acquisition, it expects to quickly lose customers and market share.[166] In its submission, ANZ states that "Following the Proposed Acquisition, Suncorp Bank customers will continue to have access to a relationship-led service model, where applicable".[167] Given that ANZ and Suncorp currently use relationship managers in a very similar way in the SME market, that is plausible. However, ANZ has also said that it plans to "automate processes and offer digital service propositions",[168] which suggests a move away from personalised banking for customers who do not qualify for relationship-managed banking.

7.17 More generally, there are presumably good reasons why ANZ does not currently use a more personalised model for most of its services (i.e. it does not currently adopt a Suncorp-like model even though it has the choice to).[169] If ANZ's management found this approach attractive, it would have focused more on competing in this way itself. Therefore, it seems possible to infer that ANZ will prioritise a digital-led, more mass market approach to banking more than Suncorp would in the counterfactual and as much as BEN/Suncorp would in the alternative buyer counterfactual, although it may still maintain some aspects of the current Suncorp model.

7.18 Beyond this, it is a matter of speculation how Suncorp Bank's SME business model will be adapted post-acquisition. It may be that ANZ will start aligning Suncorp's SME business model to its own from Day 1, or it may move more slowly.

7.19 The reaction of other banks to any change in Suncorp's business model is even more uncertain. [redacted] However, it is possible that they would struggle to fill the gap left behind by Suncorp for some time, particularly as it is the smaller banks (BoQ, Judo Bank) who are more relationship-oriented.

7.20 Given (i) the lack of data on local markets and (ii) the uncertainties around ANZ's plans with Suncorp and about the intentions of competing banks, I cannot say that there is a real chance of an SLC in the Queensland SME sector. However, I cannot rule it out either.

Horizontal unilateral effects in the market for agribusiness banking

7.21 The Parties' submissions in relation to agribusiness banking mostly relate to:

1. Market definition: as explained in Section 4 above, the Parties argue that there is a national market for business banking, including SME and agribusiness banking;

[164] See para. 9.246-9.252 of my first report.
[165] See Tables 21-25 in my first report.
[166] ANZ submission dated 9 March 2023, para 2.10.
[167] ANZ submission dated 9 March 2023, para 2.13.
[168] ANZ submission dated 9 March 2023, para 2.13.
[169] See para. 9.257 of my first report for evidence on ANZ's use of relationship-based banking.

2. Closeness of competition and Suncorp's competitive position in the market: Suncorp submits that its "presence in Queensland and northern New South Wales is due to historical factors",[170] Rabobank and NAB are its main competitors in "initially winning customers",[171] Suncorp does not lead on price in agribusiness banking, and its competitive proposition is based on the relationship service offering which is not unique to Suncorp and is readily replicable.[172]

7.22 On the geographic market definition for agribusiness banking, as explained in Section 5, I have not changed my view that the relevant geographic market for SME and agribusiness banking is local/regional, but I note that the new evidence suggests a regional/local geographic market may well be substantially larger than a single major town.

7.23 In order to explain how the second strand of evidence on closeness of competition and Suncorp's competitive position in the market might affect my assessment, it is useful to again distinguish between two versions of the theory of harm:

1. A narrow version that focuses on the loss of competition between the Parties: After the merger prices will rise and quality (including the effort spent on relationship banking) will fall, because ANZ and Suncorp will internalise diversion to each other and therefore set higher prices and lower quality.

2. A broader version that focuses on the likely changes in how Suncorp will be run, post-merger: As explained in Section 9.H of my first report, there is evidence that Suncorp is a vigorous and effective competitor in Queensland, particularly with respect to small and medium agribusinesses and in terms of non-price competition. In particular, Suncorp appears to adopt a more flexible and dynamic approach to lending, and is willing to consider types of loans that the major banks (and Rabobank) may not be willing to take offer.[173] After the merger, it is possible that Suncorp will be run more like ANZ, i.e. adopt a more rigid and "[redacted]"[174] approach to lending, which may include having a reduced willingness to fund non-traditional/bespoke businesses or investments. It may or may not disappear as a separate brand, but even if it continues to exist as a brand it may not have the business model that Suncorp has today. If there is no other bank in one or more of the local agribusiness banking markets in Queensland that can and will jump into that gap, customers who value this business approach are worse off.

7.24 On the narrow version of this theory of harm, it appears that – notwithstanding their differences in approach to lending – there is evidence to suggest that Suncorp and ANZ compete directly with each other, as explained in para 9.217 of my first report. [redacted] I also noted in my first report that I do not have the data necessary to estimate the size of the catchment areas of different agribusiness locations,[176] and therefore was not able to calculate market shares or fascia counts at a local/regional (i.e. sub-state) level. This remains the case.

[170] Suncorp response to the SOPV, para 181.
[171] Suncorp response to the SOPV, para 182.
[172] Suncorp response to the SOPV, para 183.
[173] [redacted] first report.
[174] [redacted]
[175] [redacted]
[176] Para 9.224 of my first report.

7.25 However, I note that Dr. Williams agrees with the general proposition that "one is more likely to uncover competition problems if one narrows the scope of markets".[177] In his opinion, the fact that "Professor King refers to no evidence of the extent to which degrees of concentration might vary across regions within the supply of loans by banks to Queensland agribusiness" is a flaw of Prof. King's analysis.[178]

7.26 In my first report, I sought to address this by examining overlaps between ANZ and Suncorp's agribusiness locations, and the locations of competitors in the market.[179] I found that the two towns that will only have one competitor present post-acquisition, Ayr and Chinchilla/Miles,[180] are within reasonable driving distance from other towns served by at least three competitors, so the competitors in these nearby towns *may* still pose some competitive constraint to the merged entity in Ayr and Chinchilla/Miles. However, I was not able to reach a firm conclusion on this as I did not have data on drive times between the Parties' agribusiness bankers and their customers, and therefore was unable to calculate catchment areas.

7.27 The new evidence on drive times (as explained in Section 5) provides some indication that a regional/local geographic market may be larger than a single major town. Although not conclusive on the extent of local markets, this evidence points towards it being less likely that there are one or more local markets where there will be a real chance of an SLC because the merger causes there to be only three or fewer competitors left. However I cannot rule this out.

7.28 On the broader version of this theory of harm, my first report noted:

"Given the differences between the major banks and the regional banks in their willingness to develop a flexible offering, it is important to note that the acquisition would remove a regional bank (Suncorp Bank) from all the towns listed in the table above; in two such towns (Cairns and Chinchilla/Miles), there will be no sizeable independent or regional banks post-acquisition.[181] This will reduce consumer choice and potentially competition (particularly in non-price aspects) in these towns."[182]

7.29 Under this approach, it is because Suncorp is different that its acquisition by ANZ might have negative impacts for customers. After all, Suncorp is the main non-major bank competitor serving small to medium agribusinesses in Queensland (as I noted in my first report, Rabobank – the other non-major bank with a strong presence in Queensland agribusiness – [redacted].[183]

7.30 I note that Suncorp Bank also differs from ANZ in that a larger proportion of Suncorp Bank's agribusiness customers in Queensland are relationship managed (see Table 2). (That said, I also note that the figures on relationship management in Table 2 give only a partial view of how the different banks compete in agribusiness. This is discussed at greater length in paragraphs 9.210-9.217 of my first report.) Therefore, there is a risk that post-acquisition, ANZ will replace Suncorp's business approach with one that is more

[177] Second expert report of Dr. Williams dated 19 May 2023, para 25.
[178] Second expert report of Dr. Williams dated 19 May 2023, para 43.
[179] Para 9.224-9.231 of my first report.
[180] While I recognise that Chinchilla and Miles are separate towns, they are sufficiently close by (30 minutes driving time) such that conditions of competition are likely to be homogeneous enough for them to be considered the same local area.
[181] I note that both BEN and BoQ are present in Cairns, but their presence in Queensland agribusiness is generally small.
[182] Para 9.230 of my first report.
[183] Para 9.222 of my first report. [redacted]

similar to ANZ's (less relationship-managed and less flexible to individual circumstances), reducing competition in non-price aspects.

Table 2: % of agribusiness customers in Queensland that are relationship managed

Bank	% of agribusiness customers in Queensland that are relationship managed
ANZ[184]	[redacted]
Suncorp Bank[185]	[redacted]
CBA[186]	[redacted]
NAB[187]	[redacted]
Westpac[188]	[redacted]
Rabobank[189]	[redacted]
BEN[190]	[redacted]
BoQ[191]	[redacted]

Source: [redacted]

7.31 As with the market for SME banking, it is important to consider two questions:

1. What will ANZ do to Suncorp's business model in the agribusiness banking market, post-merger?
2. How will other banks respond to any change?

7.32 As noted above, there is relatively little direct evidence on what ANZ intends to do with Suncorp in the medium-term future. Since relationships are a key aspect of agribusiness banking,[192] I would not expect ANZ to do away with Suncorp's relationship-based business model altogether. Even if it does, there remain other players in the market who rely heavily on relationship-management, as seen in Table 2.

184 [redacted]
185 [redacted]
186 [redacted]
187 [redacted]
188 [redacted]
189 [redacted]
190 [redacted]
191 [redacted]
192 See Section 6.F of my first report.

7.33 In other words, I agree with the Parties' submissions that Suncorp's relationship-based model is not unique to Suncorp and is to an extent replicable. Nonetheless in my opinion, there may be differences in Suncorp's risk appetite and lending policies that make it an important competitor in the market. Post-acquisition, ANZ may implement changes to Suncorp's risk appetite and lending guidelines for its agribusiness bankers to bring Suncorp's lending policies in line with its own, which may result in a less flexible and more conservative approach to lending compared to Suncorp's current approach. However, it is a matter of speculation how Suncorp Bank's agribusiness business model will be adapted post-acquisition. It may be that ANZ will start aligning Suncorp's business model to its own from Day 1, or it may move more slowly.

7.34 There is then the question of whether competitors like Rabobank, BEN, or BoQ can fill the gap in the market stemming from the change in Suncorp's business model. As explained in para 9.232-9.238 of my first report, I consider that barriers to expansion for banks that already serve agribusinesses in Queensland are low, but the key question is capacity. For example, [redacted] While Mark Bennett explains that [redacted][193] it may be prepared to do so if there is such a gap left by Suncorp. To fill this gap, rival banks will need to hire or train new agribusiness bankers and build new relationships with agribusiness clients. If ANZ decides to reduce the number of Suncorp agribusiness bankers in order to bring its model more in line with its own, this may free up talent for other banks to expand, which may make an SLC less likely.[194] However, there is limited evidence upon which to base such speculation.

7.35 Therefore, given (i) the lack of data on local markets and (ii) the uncertainties around ANZ's plans with Suncorp and the intentions of competing banks, I cannot say that there is a real chance of an SLC in the Queensland agribusiness banking sector. However, I cannot rule it out either.

Horizontal unilateral effects in a combined agribusiness/SME banking market

7.36 As discussed above, while in my opinion it is likely that there are separate relevant markets for SME and agribusiness banking (based on demand-side considerations), given the mixed evidence on supply-side substitution I have considered a combined agribusiness/SME market as well.

7.37 Table 21 of my first report, which is reproduced here for convenience, includes data for SME agribusiness customers as well as other SME customers.[195]

[redacted]

[193] Mark Bennett WS dated 1 December 2022, para 161.

[194] If specialised agribusiness bankers become brokers instead, this only mitigates the SLC to a degree. Having brokers in the market with strong specialised knowledge and customer relationships allows banks who do not have this to still originate loans. However, brokers have no incentive to get involved when the customer needs something other than a new loan, while there is evidence that agribusiness customers are reluctant to borrow from a bank that does not have an established presence in the agribusiness lending market. (Mark Bennett WS dated 1 December 2022, para 191.) As a result, banks who rely on brokers to build relationships cannot compete fully with banks who have built such relationships themselves.

[195] Note that the market for SME banking includes deposits and term products for SMEs and SME transaction accounts as well. Tables 22-25 in my first report show market shares in Queensland for different loan products and for deposits.

[redacted]

7.38 The other quantitative evidence in my first report likewise included both agribusiness and other SMEs. As a result, taking those segments together does not materially alter the conclusions I drew in para. 9.246-9.252 of my first report. Instead, I am simply able to be more confident in my analysis. At least at the state level, the market is moderately concentrated, and the increment as a result of the merger is small. The merger will put the Parties [redacted]

7.39 Comparing each bank's position in the two segments, there is some evidence that they have differentiated their strategies from time to time,[196] but these differences are relatively minor. The same is true for non-economic factors like "history", which may have affected the Parties' behaviour.[197] In both markets they are similar in size, but Suncorp's personalised model and historic ties to the state mean that it is not a particularly close competitor to ANZ.[198] The only difference is that in the SME segment Suncorp's closest competitor is BOQ, while in the agribusiness segment there are banks like Rabobank that also compete closely. However, taking the entire SME market (including agribusiness) together, BOQ is Suncorp's closest competitor.

7.40 As above, the question of horizontal unilateral effects in the SME/agribusiness market can be approached narrowly and more broadly.

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196 [redacted]

197 Eg. [redacted]

198 See para. 9.207-9.220 and 9.253-260 of my first report.

7.41 Considering the question narrowly, I would probably only be concerned in local markets where the merger results in there being three or fewer competitors remaining. Since I have insufficient data to define local markets, I cannot rule out that there are one or more such local markets.[199]

7.42 Considering the question broadly, my observations above apply equally here. If ANZ changes Suncorp's business model to abandon its more personalised and flexible approach, this could result in an impact on those SME and agribusiness customers who value this approach. However, to the extent that there are other banks that are willing and able to provide banking services in this way, there may well be no significant impact on customers under the broad version of the theory of harm.

7.43 Given these uncertainties, I cannot say that there is a real chance of an SLC in the Queensland SME sector, including agribusiness. However, I also cannot rule it out.

Conclusion on horizontal unilateral effects

7.44 In summary, in relation to both markets for SME banking and agribusiness banking, I cannot rule out an SLC under a narrow approach to horizontal unilateral effects because I cannot be sure that there is no local market where the merger causes there to be only three or fewer competitors left. And I cannot rule out an SLC under the broad approach either because I cannot rule out that under ANZ's leadership Suncorp will change its business model to be more like ANZ, reducing the number of non-major banks that operate based on a more personalised and flexible approach by one, and I cannot be sure that another competitor would step in.

7.45 However in light of new evidence and the arguments submitted by the parties I am persuaded that the evidence does not demonstrate a real commercial likelihood of an SLC. I have therefore changed my view from "real chance of an SLC" to "cannot rule out an SLC" in either the combined market for SME and agribusiness banking, or in each of those markets separately. I note that this is a matter of professional judgement rather than a clear-cut distinction.

[199] To the extent that the relevant geographic market for agribusiness banking is larger than the relevant geographic market for other SME banking, an analysis of local catchment areas would produce a market definition for the combined agri/SME market that sits somewhere in between. The exact result would probably depend on whether the catchment area analysis weights all customers equally, or whether it weights customers by revenue. Other competition authorities, when faced with this question, have often defaulted to weighting all customers equally, but there is no principled reason why that should be the right approach.

8. Competitive assessment: Coordinated effects

8.1 In my first report, I found a real chance of an SLC due to coordinated effects in home loans. The key drivers of that conclusion were:

1. A general propensity towards coordination in the market due to:
   - A small number of coordinating firms – the four majors;
   - Symmetry in costs (with the RBA reserve rate being an important common driver of costs);[200]
   - Interest rates that are transparent to rivals due to frequent interaction;[201] and
   - Frequent contact between the majors across multiple markets.
2. The presence of a counterfactual where Suncorp is acquired by Bendigo and Adelaide Bank (noting that the likelihood of any counterfactual scenario happening absent the acquisition is a factual matter and I have not been asked for a view on this). In that counterfactual, as explained in Section 6 above and Section 7.C in my first report, my view is that there is a real chance that the merged BEN/Suncorp entity would be a challenger of similar importance to Macquarie, which would tend to disrupt any coordination.

8.2 I have already discussed my assessment of the Parties' additional submissions on the BEN/Suncorp counterfactual in section 6 above. In short, the additional submissions have not caused me to change my views.

8.3 With regard to coordinated effects specifically, the points that the Parties raised in response to the ACCC's SOPV are discussed in section 4 above. I consider that there is considerable agreement between them and me on the point of recent competition. As I discussed in my first report,[202] I have found significant evidence of competition between the majors in recent years. The main area of disagreement is whether this period of competition is a brief interruption of long-term coordination, or whether something has permanently changed in the market.

8.4 In that regard, I note that the key factors underpinning my finding of a propensity towards coordination, as I have listed them above, are unaffected by recent developments. There was a sudden and significant shock to demand and to costs as a result of the COVID-19 pandemic and the Russian invasion of Ukraine, which had large and sudden effects on interest rates, driving refinancing demand. When firms find themselves facing higher than average market demand, they will have an increased short-term incentive to deviate from coordination to capture a large share of that transient demand. It is particularly difficult for firms to

[200] Prof. King strongly emphasises symmetry of market shares as well. (Para. 83-86 of his first report and para. 49-50 of his second report.) In so doing he relies on para. 6.13 of the ACCC merger guidelines. However, the guidelines rightly stress symmetry in costs first and foremost (e.g. para. 6.12). Similar market shares might be taken as a evidence of similar costs rather than a driver of coordination in their own right, although it is true that under some assumptions it is possible to show that a smaller company will have a greater incentive to break ranks. (See para. 85b of Prof. King's first report, p. 4 of Prof. De Roos's report, and Ivaldi et al. (2003), 'The Economics of Tacit Collusion', report for DG Competition, European Commission, p. 14-16.)

[201] Note Prof. King's distinction between transparency to consumers and transparency to rivals in para. 42 of his second report.

[202] Para. 9.69-9.81 of my first report.

sustain coordination during periods of high demand.[203] However, in my opinion, the propensity towards coordination has not changed significantly in recent months. For example, in my first report, I noted recent press reports (May 2023) that CBA, Westpac, and NAB have announced that they are ending their cashback offers for home loans, which may indicate that competition in the market is starting to ease.[204] More recent press commentary suggests that competition has continued to ease.[205]

8.5 As the Parties rightly point out, there are other changes that have happened in parallel that do affect the propensity towards coordination between the majors. Most importantly, the use of brokers has become more common, and customers are much more likely to handle their banking online. However, these are factors that I already discussed in my first report.[206]

8.6 Regarding the period of 2018 and earlier, I have discussed my views in para. 9.63-9.68 of my first report. I stress that the characterisation of the major banks' behaviour during this period is quite nuanced. ANZ's submissions refer to an "ability to exercise market power over (…) competitors and consumers".[207] It is unclear to me what ANZ means by market power over competitors, but market power over consumers is typically reflected in an ability to price above marginal costs, which is certainly a relevant perspective.

8.7 I do not accept that such market power did not exist. The PC made quite a stark finding on this point. It said: "The major banks benefit from advantages of scale, scope and branding as discussed above, which give them substantial market power and the ability to remain broadly insulated from competitive threats posed by smaller incumbents or new entrants."[208] In my first report I stopped short of characterising the market power of the majors as "substantial", but noted the long history of synchronised pricing,[209] and concluded that I could not rule out a 'live and let live' form of coordination on non-price parameters of competition. The fact that profits have fallen in the last five years is consistent with the existence of coordination before 2018. ANZ's submissions have not caused me to change my mind on this.

8.8 In conclusion, I have not seen evidence to suggest that my view set out in my first report needs to be changed – I still consider that there is a real chance of an SLC due to coordinated effects in the Australian home loans market under the alternative buyer counterfactual.

[203] Gore, D., Lewis, S., Lofaro, A., & Dethmers, F. (2013). Horizontal mergers II: Coordinated effects. In The Economic Assessment of Mergers under European Competition Law (pp. 318-377). Cambridge: Cambridge University Press.

[204] See, for example, Brokernews.com.au, 26 May 2023, "Westpac ending cashback offer": https://www.brokernews.com.au/news/breaking-news/westpac-ending-cashback-offer-282538.aspx

[205] Afr, June 2023, Why the bank mortgage war is suddenly over: https://www.afr.com/chanticleer/why-the-bank-mortgage-war-is-suddenly-over-20230605-p5ddya

[206] Eg. Para. 3.31-3.32, 7.3, and 9.84 of my first report.

[207] ANZ Response to the SOPV, para. 3.2.

[208] PC report, p. 104.

[209] ACCC Residential Mortgage Price Inquiry final report, November 2018 at p.6. See also para. 40-43 of Prof. King's second report.

9. Public benefits

Operating cost savings

9.1 ANZ has submitted new evidence to support its public benefits claim. The new evidence includes further detail on:

1. the estimation of cost savings, and
2. why these cost savings are public benefits that will be partly pass through to consumers.

Cost savings estimates

9.2 ANZ followed a comprehensive process to get a credible estimate of synergies and one-off integration costs. However, it is not clear that the potential cost saving estimates enjoyed by ANZ from the merger also result in a public benefit.

9.3 As noted in my first report, efficiency savings can only be considered a public benefit if they are specific to the merger, i.e. they cannot be achieved in the absence of the merger.[210] ANZ's cost savings estimates did not consider whether Suncorp or ANZ could have achieved some of the savings on their own. Mr. Smith opined on this issue in his first report, which I considered in my first report. For example, I noted in my first report that [redacted] I saw no further evidence that the cost savings claimed were all specific to the transaction.

9.4 In addition, ANZ cost saving estimates can suffer from asymmetric information. Louise Higgins notes that [redacted]' This can lead to the costs of integration being higher than anticipated.

9.5 There are also impediments that can occur during the integration that impact the amount of cost savings and the time they take to materialise. For example, as noted by Louise Higgins, these can include [redacted][212] I recognise that the likelihood and impact of these impediments are difficult to quantify.

9.6 The time it takes to achieve the benefits will also impact the cost savings from the merger. I noted in my first report that the acquirer can be optimistic about how long it will take to achieve synergies,[213] and Louise Higgins also concluded that [redacted] Moreover, I have not seen evidence in support of ANZ's claim that full run rate synergies will be available by year 6 after completion.

9.7 I remain of the view that the savings from this merger that could be categorised as a public benefit are uncertain.

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[210] Paras 10.10 – 10.11 of my first report.
[211] Louise Higgins WS, p.17, para 84.
[212] Louise Higgins WS, p.17, para 88.
[213] Para 10.20 of my first report.

9.8 There is also uncertainty around the costs of the merger, i.e. a public detriment which offsets the public benefit. Mr. Smith's second report raises new evidence of a public detriment from the merger in the form of separation costs and stranded costs that will be borne by Suncorp Group. I agree with Mr. Smith that these costs, although not borne by ANZ, would offset existing public benefits from the merger.

9.9 In my first report, I highlighted that many efficiency claims by merging firms are not accepted by competition authorities because the evidence supporting those claims is difficult to verify and substantiate.[214] The evidence I have seen points towards plausible efficiency savings (and costs) from the merger. Both effects are difficult to quantify in practice. Moreover, these cost savings are based on a set of preliminary assumptions. The exact cost savings will, as I noted in my first report, depend on decisions which are yet to be made.

Cost-savings passed on to consumers

9.10 Mr. Smith considers that ANZ would face a strong incentive to pass on cost savings to consumers based on his assessment of the evidence regarding competition in Australia for the supply of home loans (summarised in Section 4 above). I agree that the degree of pass-through to consumers will depend on the strength of competition after the acquisition. (I also note that variable (or marginal) cost savings are more likely to be passed through than fixed cost savings.[215]) However, I am unconvinced that the market for home loans will remain competitive in the years post-acquisition.

9.11 I agree with Mr. Smith that there is evidence of recent increased competition in the market.[216] I have considered the evidence he points to in detail in my first report (for example, ANZ and Suncorp's market shares, recent refinancing activity, turnaround times, etc.) so I do not deal with them again here. However, in my opinion, this recent increase in competition could reflect a temporary breakdown in coordination, likely driven by a sudden sharp increase in refinancing demand in response to the rapid increase in interest rates after a long period where rates were low.[217] In particular, I noted in my first report recent press reports (May 2023) that CBA, Westpac, and NAB have announced that they are ending their cashback offers for home loans, which may indicate that competition in the market is starting to ease.[218] More recent press commentary suggests that competition has continued to ease.[219] Therefore, I would be hesitant to draw the conclusion that ANZ will face a strong incentive to pass on any cost savings to consumers post-acquisition based on the current level of competition in the market.

Wholesale funding costs

9.12 I have not seen any further evidence that leads me to change my conclusions from my first report. In my first report, I set out how there are several potential reasons why the merger could result in a reduction in wholesale funding costs, some of which constitute real productivity benefits and some of which do not. In particular, I concluded that it is likely that some, and potentially a significant proportion, of the reduction in wholesale funding costs arise from a higher implicit subsidy for ANZ, a difference in capital composition

[214] Para 10.22 of my first report.
[215] Para 10.16-10.17 of my first report.
[216] Para. 9.69-9.81 of my first report.
[217] See para 9.80, 9.111-9.112.
[218] See, for example, Brokernews.com.au, 26 May 2023, "Westpac ending cashback offer": https://www.brokernews.com.au/news/breaking-news/westpac-ending-cashback-offer-282538.aspx
[219] Afr, June 2023, Why the bank mortgage war is suddenly over: https://www.afr.com/chanticleer/why-the-bank-mortgage-war-is-suddenly-over-20230605-p5ddya

(greater equity buffer) which may protect holders of senior debt, or an increase in diversification through the integration of Suncorp Bank's asset book into ANZ. None of these constitute productive efficiency benefits.[220] On the other hand, the reduction in wholesale funding costs could reflect a reduction in the *frictional costs* associated with risk of bank failure, or an improvement in the management of underlying risk – these would constitute productivity efficiency benefits.[221]

9.13 The new evidence provided does not change my view on the likely balance between these various drivers. ANZ's response to the SOPV engages only a little with these issues. It reiterates its view that there will be a reduction in wholesale funding costs. On the question of whether the lower wholesale funding costs will be offset by higher costs of capital elsewhere (in particular as a result of higher capital requirements), ANZ argues that there is not a direct mapping between the two, and that, in any case, higher capital requirements drive safety and soundness benefits.[222] This may be true, but no evidence is provided on how the combined cost of Suncorp's capital and wholesale funding would change as a result of the merger. There is therefore no basis to change my previous conclusion that the change in capital composition (which is not a productive efficiency benefit) may constitute a material part of any reduction in wholesale funding costs.

9.14 On the question of whether lower wholesale funding costs may, in part, reflect a greater implicit subsidy to D-SIBs, ANZ's response to the SOPV argues that this view is "misplaced" and that the merger (as set out by Dr. Carmichael) would result in an improvement in safety and soundness.[223] While it may be true that Suncorp may face a lower risk of failure, post-merger, this does not change the fact that in the event of failure, the Australian government may be more likely to provide funds to rescue a D-SIB. Indeed, as I set out in my first report, two of the credit rating agencies appear to take this view – giving ANZ a two-notch uplift in its credit rating on the basis of greater assumptions of government support in the event of failure.[224] ANZ does not address this issue in its response to the SOPV.

Prudential safety and stability benefits

9.15 Dr. Carmichael's second report does not materially change my view on the potential prudential safety and stability benefits of the proposed merger. I concluded in my first report that the benefits presented in Dr. Carmichael's report were plausible, but difficult to quantify. I further concluded that caution should be exercised in weighing such benefits against any SLC.[225] This remains my view.

9.16 Dr. Carmichael argues, in both his first and second report, that while the merger will increase the size of a D-SIB, and therefore increase the degree of systemic risk, the design of extensive additional capital requirements imposed on D-SIBs (which mitigates systemic risk) means that the residual risk (once mitigation is taken into account), post-merger, would be lower. The logical implication of this would appear to be that the Australian banking system would be safer if all non-D-SIBs were acquired by D-SIBs.

9.17 In the second report, Dr. Carmichael presents further arguments in support of his view that the inherent systemic risk posed by the merger will be lower than the risk reduction benefit of higher capital requirements. The second report sets out that there are four measures of systemic importance, and for

[220] Para 10.42, my first report.
[221] Para 10.41, my first report.
[222] Para 9.89-9.98, ANZ's response to the SOPV
[223] Para 9.99-9.101, ANZ's response to the SOPV
[224] Para 10.34, my first report.
[225] Para 10.51, my first report.

only one of these, 'size', does the publicly available evidence indicate an increase (ANZ would be approximately 7% larger, post-merger). Dr. Carmichael suggests, therefore, that, while we do not know what APRA's weighting of the four indicators is, the fact that only one of them is materially increasing means that the increase in systemic risk is likely to be materially less than 7%, and compares this with an increase in Suncorp Bank's capital requirement of 60%, while noting the two numbers are not directly comparable.[226] (Indeed, in my opinion, they are not comparable – a more appropriate figure for comparison would be the percentage increase in ANZ and Suncorp Bank's combined regulatory capital requirement; this is likely to be below 7%.) While I think it unlikely that APRA takes such a formulaic approach, I do agree that increasing ANZ's size by 7% should not significantly increase systemic risk in Australia's banking system.

9.18 Essentially, Dr. Carmichael's approach assumes that APRA ensures that any systemic impacts of such a transaction would be more than compensated for by higher capital requirements. I remain of the view that this might be true but is unproven and difficult to quantify. I am also somewhat sceptical of the implication that a better capitalised but less diverse banking system is publicly beneficial.

9.19 I continue to believe therefore that caution should be exercised in balancing this potential benefit against any SLC.

[226] Para 3.3(j)-(k), Dr Carmichael's second report.

10. Statement of truth

10.1 I confirm that insofar as the facts stated in my report are within my own knowledge I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.

Signed [redacted]

Mary Starks

Date 7 July 2023

Annex 1: Letter of instructions

Australian Government Solicitor
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GPO Box 1408 Brisbane QLD 4001
T 07 3360 5600
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Canberra
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Darwin

Our ref. 22005854

7 July 2023

Mary Starks
Partner, Flint Global Ltd
[redacted]

By email: [redacted]

Dear Ms Starks

Proposed acquisition of Suncorp by ANZ

1. We refer to:
   a. your contract of engagement for the provision of expert advice in connection with the application for authorisation by Australia and New Zealand Banking Group Limited (**ANZ**) of its acquisition of Suncorp Bank (**Suncorp**)
   b. our letter of instruction dated 16 June 2023, and
   c. your expert report dated 16 June 2023 (the **First Report**).

Supplementary report

2. We have provided you with a supplementary brief of material as further set out at **Annexure A**.
3. You are instructed to prepare a supplementary expert report which addresses the following question: To what extent, if at all, does the further material with which you have been briefed (as described in Annexure A to this letter) alter any of the conclusions expressed in your First Report?

Requirements for supplementary report

4. We have previously provided you with a copy of the Expert Evidence Practice Note, which includes the *Harmonised Expert Witness Code of Conduct* (GPN EXPT) (**Practice Note**), for expert witnesses in proceedings in the Federal Court of Australia. While your supplementary report is not being prepared in the context of Federal Court proceedings, we request that you comply with the Practice Note when preparing your supplementary report.
5. Please acknowledge in the supplementary report that:

a. you have read and complied with the Practice Note and agree to be bound by it; and

b. your opinions are based wholly or substantially on specialised knowledge arising from your training, study or experience.

6. Consistent with the Practice Note, please ensure that your supplementary report:

a. records your independent opinions uninfluenced by the position of the ACCC or any other party;

b. identifies the assumptions and material facts on which each opinion expressed in the report is based;

c. identifies the reasons for and any literature or other materials utilised in support of your opinions;

d. if a particular question, issue or matter falls outside your field of expertise, identifies that matter;

e. describes any examinations, tests or other investigations on which you have relied, identifying the person who carried them out and that person's qualifications;

f. identifies the extent to which any opinion which you have expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person;

g. includes a declaration that you have made all the inquiries which are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which you regard as relevant have, to your knowledge, been withheld from the report;

h. states any qualifications on an opinion expressed in the report without which the report is or may be incomplete or inaccurate;

i. states whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason; and

j. includes a brief summary of your conclusions at the beginning of the report.

Yours sincerely

Chris Steger
Senior Executive Lawyer
T [redacted]
M [redacted]
[redacted]

ANNEXURE A

Material provided for the purposes of preparing your supplementary report

7. For the purposes of preparing your supplementary report, we have provided you with copies of the following material:

   a. ANZ's submission dated 17 May 2023 in response to the ACCC's Statement of Preliminary Views (confidential and public), including annexures, witness statements, and expert reports relied on by ANZ;

   b. Suncorp's submission dated 17 May 2023 in response to the ACCC's Statement of Preliminary Views (confidential and public), including witness statements and expert reports relied on by Suncorp;

   c. responses to ACCC requests for information from ANZ, Suncorp and various third parties (confidential);

   d. Bendigo and Adelaide Bank's submission dated 30 June 2023, including the expert report annexed to same (confidential);

   e. ANZ's further submission dated 16 June 2023 and supporting material (confidential);

   f. record of oral submissions from ANZ (partially confidential);

   g. [redacted]

   h. note prepared by ACCC on data (confidential); and

   i. section 155(1)(c) examination transcripts of [redacted] and [redacted] and the documents shown to each during their respective examinations (confidential).