

FRANCHISING TASKFORCE
REGULATION IMPACT STATEMENT
SUBMISSION TO THE TASKFORCE

December 2019

ANZ SUBMISSION

Introduction

1. ANZ welcomes the opportunity to make a short submission to the Franchising Taskforce in relation to the Franchising sector reforms – Regulation Impact Statement.
2. This submission is made from the perspective of ANZ Mobile Lending; that is, in ANZ's role as a franchisor (please refer to the Attachment for further information on ANZ's Mobile Lending business).

Principle 4

3. ANZ supports Principle 4:

Principle 4. A healthy franchising model fosters mutually beneficial cooperation between the franchisor and the franchisee, with shared risk and reward, free from exploitation and conflicts of interest.

4. We wish to comment on options to address Problem 4.3:

Unilateral variations can lead to conflicts of interest and exploitation.

5. ANZ in the course of its business is continuously determining and making changes that affect all of our channels, including ANZ Mobile Lending (updates are generally issued weekly). The changes are aimed to ensure that ANZ meets its obligations that arise in law or from industry standards, to respond to market developments, or to improve business or customer outcomes. We commonly change risk-related processes to improve compliance and customer outcomes. We would consider that such changes are in the long term interests of our franchisees and customers, as well as the business, and are essential to the successful operation of the business.
6. We consider that the most appropriate approach to minimising the risk and incidence of conflicts of interest and exploitation is to increase awareness of franchisee legal rights, particularly those arising out of the work of the Taskforce.
7. We note that the agreement between ANZ and an ANZ Mobile Lending franchise is generally of a size that it is subject to Unfair Contract Terms law and associate protections

Principle 6

8. ANZ wishes to comment on principle 6 of the Franchising Taskforce Issues Paper, and the associated options:

Principle 6: Franchisees and franchisors should be able to exit in a way that is reasonable to both parties.

9. As noted in our response to the Franchising Taskforce Issues Paper, ANZ and its franchisees must comply with our legal obligations, banking standards and ANZ policies (for example, related to anti-money laundering, fraud and dishonesty, customer privacy, responsible lending obligations).
10. Where information becomes available that indicates a breach of such obligation has occurred, ANZ will undertake inquiries through its internal investigation function. Following such investigations, ANZ will, in some circumstances such as fraud, dishonesty, or a serious breach of process, terminate franchise agreements (or indeed employees who have engaged in misconduct). We believe that this action will generally be consistent with community standards, contractual agreements, and legal obligations.
11. We consider that the ability to act quickly, including termination of an agreement, when we form the view that misconduct has occurred is essential to the provision of banking services in a way that meets community standards and our legal obligations.
12. For this reason, we consider that the appropriate approach to the issues raised under Problem 6.1 is through clarification of termination processes available to franchisees and promoting greater awareness of negotiation pathways.

ATTACHMENT

ANZ Mobile Lending - Background

13. ANZ Mobile Lending consists of around 170 franchise businesses with 400 mobile lenders. Over half of the franchises have been with ANZ Mobile Lending for more than 10 years. Features of ANZ Mobile Lending are:
 - Mobile Lending franchisees only provide ANZ home loans and personal loans (requests for other ANZ products are referred to an ANZ branch or other relevant areas in the bank) and they do not offer other lenders' loans. Mobile Lending franchisees are authorised as credit representatives under ANZ's Australian Credit Licence.
 - Like branch staff, Mobile Lending franchisees market and promote ANZ home loans and other products in order to secure loan applications. They have no ability to approve a loan application; this function is carried out centrally by ANZ credit assessment staff.
 - A franchisee is an agent of ANZ with limited authority. They are not agents of customers, and they do not provide advice on competing loans to customers.
14. ANZ Mobile Lending franchisees are remunerated through commissions based on the loan amount; both an upfront commission and a trail commission. The maximum commission available to the franchisee from a loan is disclosed to customers in their letter of offer.
15. The agreement between ANZ and an ANZ Mobile Lending franchise is set out in the Franchise Agreement. Additional detail is provided in other documents, such as the ANZ Mobile Lending Operations Manual which deals with the following areas:
 - Laws, standards and policies with which franchisees (and all ANZ employees) must comply. Those that are particularly relevant for customer facing banking include the *ASIC Act 2001*, *National Consumer Credit Protection Act 2009* and *National Credit Code*, *Privacy Act 1988*, *Anti Money Laundering and Counter Terrorism Act 2006*, *Banking Code of Conduct*, and ANZ policies (such as the *Privacy Policy*, *Code of Conduct and Ethics*, *Anti-bribery and Anti-Corruption*, *Information Security*, and *Equal Opportunity, Bullying and Harassment*)
 - Training and accreditation, including initial training, accreditation in specific products (such as personal loans), and Australian Credit Licence and Continuous Professional Development training

- Staff management, including fair work obligations, wages and salaries, record keeping, leave entitlements, EEO, recruitment and termination
- Financial management, including commission payments, clawback procedures, financial management and related requirements, and payroll obligations
- Marketing and leads, including brand and marketing requirements, marketing plans, advertising and promotion, and lead generation
- Business management and operations, including company director and business law compliance, business performance standards and reporting, ANZ support services, networking and franchise communications, technology, business premises
- ANZ products and related processes, for example home loan products, and customer identification and loan maintenance processes.

ENDS