

22 February 2023

Director, Digital Competition Unit  
Market Conduct Division  
The Treasury

By email: [digitalcompetition@treasury.gov.au](mailto:digitalcompetition@treasury.gov.au)

Dear Director

### **Digital Platforms: Government consultation on ACCC's regulatory reform recommendations**

Thank you for the opportunity to provide brief input to this consultation.

COBA is the industry association for Australia's customer owned banks (mutual banks, credit unions and building societies). COBA members are an important part of Australia's payments system, providing a wide range of payment products and services to 5 million customers. Collectively, our sector has over \$160 billion in assets and is the fifth largest holder of household deposits. Customer owned banks account for around three quarters of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

Our comments pertain to the Consumer Recommendations (questions 7-12).

#### **Key points**

We support the ACCC's recommendations pertaining to scams, harmful apps and fake reviews, including the notice-and-action mechanism, verification obligations, and reporting.

Swift take down action and information sharing with financial institutions is critical.

A new ombudsman scheme may be the fairest way to investigate scam loss complaints.

#### **Q8 – Do you agree with the ACCC's recommendations to introduce targeted measures on digital platforms to prevent and remove scams, harmful apps, and fake reviews?**

COBA supports the recommendations made in the ACCC's fifth interim report pertaining to scams, harmful apps and fake reviews, in particular:

- the proposed notice-and-action mechanism;
- requiring verification of certain business users with additional verification of advertisers of financial services and products, and
- public reporting on mitigation efforts.

Verification obligations on advertisers of financial services and products will go some way to helping address the existing gap for consumers trying to make informed, safe choices and give consumers confidence that the product or service is legitimate. Importantly it will address the ongoing misuse of COBA member brands and logos by fraudsters. Sharing this information with banks, quickly and confidentially, will assist all parties who can disrupt and prevent scammers to do so.

Our submission to the ACCC noted that past reports of scammers advertising on digital platforms had not resulted in swift removal, meaning that consumer and business harm was ongoing. Despite the introduction of Google's voluntary third-party financial advertisement vetting regime, customer owned banks continue to have member bank sites replicated and hosted in uncooperative jurisdictions.

Customer owned banks continue to report instances of digital platforms allowing ads to be placed that redirect traffic to online banking domains to regulators. Finding fast and effective ways to take down cyber threats in uncooperative jurisdictions should be a priority for Australian regulators.

The reporting mechanism proposed by the ACCC will be important to help gauge how responsive digital platforms are, and to understand whether additional regulation is needed. Patterns of scam activity and targets for misuse may also become apparent through better reporting on mitigation and take downs. Again, sharing this information with those on the frontline of scam disruption will be critical.

**Q10 - Is a new ombudsman scheme required to resolve disputes with platforms? Can any functions be performed by an existing body?**

We also support the need for strong internal dispute resolution obligations on digital platforms, as detailed in the ACCC's interim report.

Customer owned banks dedicate significant resources to the detection and disruption of fraud and scams. We are the last safeguard when it comes to stopping a scammer from accessing a victim's money. In cases where banks are concerned a customer has been groomed by a scammer, it can be almost impossible to successfully intervene and convince the customer they are falling victim to a scam.

It is our view that banks should not be liable for reimbursing a scam loss, where the bank has adhered to all legal requirements and has followed the express instructions of the customer as they are contractually obliged to do.

Distressed customers will often seek their lost money back by lodging a dispute with the Australian Financial Complaints Authority (AFCA) even where the bank has acted with due care and skill, and AFCA finds there are no grounds to reimburse the scam loss. As a result, banks are billed thousands of dollars by AFCA to investigate a complaint, even where the bank is found to bear no fault. It is frustrating and expensive for banks – and their members - to continually bear the cost of these complaints where they are found to be wholly in favour of the bank due to no wrongdoing on their part.

It is our view that the cost of investigating a dispute should not automatically fall to the bank. It should be borne by any parties who did not meet their legal obligations and act with due care and skill. Expanding an existing ombudsman scheme to incorporate digital platform disputes would likely be complex. A separate ombudsman scheme may be the best way to decide how to fairly investigate and consider matters of compensation depending on who was involved, for example a digital platform or telecommunications company.

We recognise that finding the optimum dispute resolution approach is a complex area and we welcome further discussion in due course.

Thank you for taking our views into account. Please do not hesitate to contact Sarah Wilson ([swilson@coba.asn.au](mailto:swilson@coba.asn.au)) if you have any questions about our submission.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Lawrence', with a stylized flourish at the end.

**MICHAEL LAWRENCE**  
Chief Executive Officer