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NSW Fair Trading
Easy and Transparent Trading Consultation Paper
Regulatory Policy, BRD
Department of Finance, Services and Innovation
Level 5, McKell Building
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SYDNEY NSW 2000

Email: policy@finance.nsw.gov.au

To whom it may concern,

MFAA Response to NSW Fair Trading Consultation Paper: *Easy and Transparent Trading – Empowering Customers and Small Business*

On behalf of the Mortgage & Finance Association of Australia (**MFAA**), we welcome the opportunity to respond to the NSW Government's Consultation Paper (**the Paper**) on *Easy and Transparent Trading – Empowering Customers and Small Business.* This submission seeks to clarify the MFAA's position in relation to a number of important issues raised in the Paper that are relevant to the mortgage broking industry. As such, the contents of this submission only address section 2.2 of the Paper, 'Disclosure of Broker Commissions and Referral Fees' and section 2.4 'Trailing Commissions'.

About the MFAA

With over 13,800 members, the MFAA is Australia's leading professional association for the mortgage broking industry with membership covering mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage broking industry. The stated purpose of the MFAA is to advance the interests of our members through leadership in advocacy, education and promotion. To achieve this aim, the MFAA promotes and advances the broker proposition to a range of external stakeholders including governments, regulators and consumers, and continues to demonstrate the commitment of MFAA professionals to the maintenance of the highest standards of education and development.

Should NSW Fair Trading require further information to supplement this submission, please do not hesitate to contact me on (02) 8905 1301 or by emailing Mike.Felton@mfaa.com.au.

Yours sincerely

Mike Felton
Chief Executive Officer
Mortgage & Finance Association of Australia

1. Background

The Minister's comments in the Paper's opening 'Minister's Message' states that the NSW Government seeks to:

> … give people more freedom – make it easier for them to do business and prosper; **increase competition** – reward those who use their abilities to deliver for their customers … [and] give people **more choice and information** – allow people to make meaningful decisions…

Increasing competition and choice are at the very core of the mortgage broker value proposition with Deloitte Access Economics recently stating in their *Value of Mortgage Broking Report* that:

- "Mortgage brokers make mortgage markets work better";[1] and
- "Mortgage brokers increase choice and competition between lenders, leading to better service levels and competitive mortgage pricing".[2]

Mortgage brokers contribute significantly to competition in the Australian lending market. The c.17,000[3] brokers in the market provide customers with access to lenders (via their aggregator's panel), which include most Authorised Deposit-taking Institutions (ADIs) as well as finance companies servicing consumers and small businesses. The mortgage broking industry is supported by franchise and aggregator businesses that employ thousands more staff and bring scale and efficiency benefits to the industry. In the quarter to 31 March 2018, mortgage brokers were responsible for 55.3% of all residential home loans written.[4]

The structure, remuneration practices, and governance of the mortgage broking industry have been reviewed in detail twice in the past 18 months: through *Report 516 - Review of Mortgage Broker Remuneration* by the Australian Securities & Investments Commission (ASIC) (**the ASIC Report**)[5] and the *Retail Banking Remuneration Review*, conducted by Mr Stephen Sedgwick AO (**the Sedgwick Review**)[6]. More recently, broker remuneration also formed part of the Productivity Commission's inquiry into *Competition in the Australian Financial System*.[7]

As part of the ASIC Report, ASIC carried out its most significant data collection exercise to date, obtaining data from lenders, aggregators, brokers and others in the market to provide a picture of outcomes for residential loans written in both mortgage broking and proprietary lender channels in 2012 and 2015.

The ASIC Report made 13 key findings and six specific recommendations. The findings focussed on commission structures; soft-dollar benefits; key characteristics of the broker channel; value chain ownership structures; governance and oversight; and data quality and public reporting. These findings framed ASIC's key recommendations which painted a picture of potential conflicts of interest in

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[1] Deloitte Access Economics, *The Value of Mortgage Broking*, July 2018, p. vi.
[2] Ibid, p. 1.
[3] Mortgage & Finance Association of Australia, MFAA's Quarterly Survey of leading mortgage brokers and aggregators (produced by *comparator*, a CoreLogic business) for July, August and September 2017.
[4] Mortgage & Finance Association of Australia, *Consumers continue to select brokers as the preferred channel for a home loan – latest market share data*, 13 June 2018, (Data collated by *comparator*, a CoreLogic business).
[5] Australian Securities & Investments Commission, *Report 516 - Review of mortgage broker remuneration*, 16 March 2017.
[6] Stephen Sedgwick AO, *Retail Banking Remuneration Review - Report*, 19 April 2017.
[7] Australian Productivity Commission, *Competition in the Australian Financial System*, 29 June 2018.

current remuneration practices; and assessed the relative 'health' of the mortgage and finance broking industry.

Broadly, the ASIC Report endorsed the role that brokers can play in strengthening outcomes and enhancing competition in the home loan market. We note the following points made concerning the importance of the broker channel:

- "Brokers play a very important role in the home loan market. They are responsible for arranging around half of all home loans in Australia. Consumers are increasingly turning to brokers to get help in obtaining a home loan—in 2012 brokers arranged 47.7% of home loans for the lenders in our review. In 2015, this increased to 54.3%.
- Brokers arranged almost 520,000 new home loans from the lenders in our review in 2015 (compared to 340,000 in 2012).
- Brokers can play an important role in promoting good consumer outcomes and strong competition in the home loan market.
- From a consumer outcomes perspective, in a well-performing market brokers can help:
  a) match the needs of the consumer with the right home loan product and lender;
  b) navigate the home loan application process, which can be daunting for many consumers; and
  c) improve consumer understanding of home loans and financial literacy.
- From a competition perspective, brokers have the potential to:
  a) play a valuable role in providing a distribution channel for lenders - especially smaller lenders without their own distribution network (e.g. branches); and
  b) exert downward pressure on home loan pricing, by forcing lenders to compete more strongly with each other for business."[8]

The ASIC data-driven review did not present evidence that current remuneration structures are reducing competition or leading to poor consumer outcomes. The ASIC Report did however identify conflicts of interest and the need for change in commission structures. Specifically, ASIC noted that "remuneration and ownership structures can … inhibit the consumer and competition benefits that can be achieved by brokers."[9]

1.1 The Combined Industry Forum

In mid-2017, the mortgage broking industry united in an unprecedented manner to establish the Combined Industry Forum (**CIF**), to drive better customer outcomes in response to recommendations out of the ASIC Report, and to third-party recommendations out of the Sedgwick Review.

The ASIC Report proposed the following changes, which form the basis of the CIF reform package:

a) "changing the standard commission model to reduce the risk of poor customer outcomes;

[8] Australian Securities & Investments Commission, *Report 516 - Review of mortgage broker remuneration*, 16 March 2017, para. 18-22.
[9] Ibid, para. 23.

b) moving away from bonus commissions and bonus payments, which increase the risk of poor customer outcomes;

c) moving away from soft dollar benefits, which increase the risk of poor customer outcomes and can undermine competition;

d) clearer disclosure of ownership structures within the home loan market to improve competition;

e) establishing a new public reporting regime of customer outcomes and competition in the home loan market; and

f) improving the oversight of brokers by lenders and aggregators."[10]

The CIF is comprised of representatives from across the mortgage broking industry. Members include the MFAA, the Australian Banking Association (ABA), the Finance Brokers Association of Australia Limited (FBAA), the Customer Owned Banking Association (COBA), and the Australian Finance Industry Association (AFIA), in addition to bank and non-bank lenders, aggregators, referrer groups, and brokers. Consumers are also represented on the CIF through Choice Consumer Group, which also represents the Consumer Action Law Centre, Financial Counselling Australia and the Financial Rights Legal Centre.

To drive better customer outcomes and manage conflicts of interest raised in the ASIC Report, the CIF released a package of reforms in December 2017.[11]

Implementation of the reform package began immediately and is progressing well, with the industry having ceased payment of volume-based and campaign-based commissions and with significant progress having been made on a range of other reforms (due to be implemented by 31 December 2018). The full reform package is due to be completed by December 2020.

1.2 Mortgage Broker Disclosure Requirements

Mortgage brokers are subject to comprehensive disclosure requirements outlined in the *National Consumer Credit Protection Act 2009* (Cth) (**the NCCP Act**). Specifically, brokers face a statutory requirement to disclose remuneration paid by the lender to the broker when assisting a borrower to secure residential finance, including upfront and trail commissions. This disclosure is made in writing at least twice throughout a broker's dealings with a consumer. Additionally, the CIF's reform package seeks to build on existing obligations by recommending a number of changes to the disclosure requirements and public reporting model. Together with the NCCP Act obligations, the CIF's recommendations ensure a robust disclosure model for the industry.

1.3 Trail Commission

The current standard broker commission model includes upfront commission paid on settlement of a loan, and trail commission paid over the life of a loan. This model supports the broker in providing ongoing service to their customer base over time and recognises the economic value created by the broker for the lender. The MFAA is of the view that trail commission plays an important role in aligning the interests of the broker and borrower; prevents higher upfront commission; encourages brokers to

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[10] Ibid, para. 112.

[11] See Combined Industry Forum, *Improving Customer Outcomes: The Combined Industry Forum response to ASIC Report 516: Review of mortgage broker remuneration*, November 2017.

put forward higher quality loans; and discourages 'churn'. As such, trail commission forms an important and necessary part of the broker commission model and should be retained.

2. Mortgage Broker Disclosure Requirements

In the Paper's preamble, the Minister's Message states that the NSW Government's objective is to "give people more choice and information." The MFAA supports this proposition and is likewise committed to improved disclosure and enhanced transparency measures, to allow consumers to make more informed decisions.

Under the NCCP Act, brokers (and lenders) are required to make specific disclosures to consumers regarding their services. In response to recommendations made in the ASIC Report, the CIF has sought to build on the existing statutory disclosure requirements by recommending a number of changes to reporting requirements, outlined below.

2.1 Statutory Disclosure Requirements

Those who operate under an Australian Credit Licence (ACL) issued by ASIC to provide credit (i.e. lenders), or to supply credit assistance (i.e. brokers), must provide borrowers with prescribed disclosure documents when assisting the borrower to secure residential finance.

The NCCP Act requires that brokers who supply credit assistance (and lenders who supply credit) must provide the customer with the following documents:

- a Credit Guide;
- a Credit Quote (if a fee is charged to the customer);
- a Credit Proposal Disclosure; and
- a Preliminary Credit Assessment (if requested by the customer).

In addition to the above disclosure requirements, any commission paid to or by the credit provider for the introduction of credit business must be disclosed within a lender's credit contract.

2.1.1 *Credit Guide*

A broker's Credit Guide must be supplied as soon as the broker provides credit assistance to a customer. The Credit Guide must include mandatory disclosure information concerning:

- who is providing the credit service, that is, the broker's name and contact details;
- how a dispute can be lodged via the broker's Internal Dispute Resolution (IDR) process;
- how a dispute can be escalated to the broker's External Dispute Resolution (EDR) scheme should that become necessary; and
- any commission that may be paid.

2.1.2 *Credit Quote*

A Credit Quote must be provided if the broker charges or intends to charge a fee for their services. While not common, a very small number of brokers do charge fees to their clients. For example, a minority of broking businesses are closely related to financial services businesses with additional offerings such as investment advice and/or the sale of financial products, including various forms of insurance issued under an Australian Financial Services Licence (AFSL), and consequently may charge fees for such advice. Note that some insurances, such as consumer credit insurance, can be 'packaged' within a lending product.

2.1.3 *Credit Proposal Disclosure*

A Credit Proposal Disclosure must state the amounts of any commission or benefit that will be paid by the relevant lender to the introducing broker and to any other person. This disclosure includes the amount of trail commission that may be generated from the relevant lender by that introduction for each product recommended.

2.1.4 *Preliminary Credit Assessment*

Brokers are also required to produce a Preliminary Credit Assessment if requested by the customer. This document outlines whether or not the broker is able to recommend any lending products that are not unsuitable for the particular customer's circumstances.

2.2 CIF Reform Package – Disclosure Recommendations

Current legislation ensures that upfront and trail commissions are clearly disclosed to the customer. However, the CIF has made a number of recommendations in its response to the ASIC Report to further improve disclosure and consumer outcomes. The CIF has sought to build on existing disclosure obligations by recommending multiple changes to the disclosure requirements and public reporting model. This element of reform seeks to ensure that "customers will have clearer information to make more informed choices."[12]

Such proposed additional disclosures include brokerage or aggregator ownership arrangements of 20% or greater, and potential influence through a Board seat or a 'white label product'. The CIF has also proposed disclosure of issues affecting lender coverage and breadth of choice, such as the number of lenders a broker can access via their aggregator; the number of lenders a broker has used in the previous financial year; and the percentage of business conducted with the top six lenders used over the previous financial year.

Disclosures have also been proposed regarding aggregators, including disclosure of the number of lenders on an aggregator's panel; the percentage of business conducted with each lender in the previous financial year; the spread of lenders used by brokers in the head group over the previous 12 months (i.e. using three or fewer lenders, four to seven lenders, or eight or more lenders); and the weighted average aggregator commission rate in the previous financial year for mortgages (prior to making a broker payment). The CIF has further proposed disclosure of broker participation in lender tiered servicing arrangements, and disclosure of records of entertainment and hospitality in excess of $100.00, made available to customers via a register.

All such disclosures proposed by the CIF will be consumer-tested to ensure they are necessary and effective in achieving the aim of more informed consumer decisions.

Current Federal legislation requires significant written disclosure of any remuneration, including trail commissions, paid to brokers in relation to residential financing. The CIF's enhancements to the current disclosure regime will serve to demonstrate that the industry is committed to improving disclosure standards, to allow consumers to make more informed choices.

[12] Combined Industry Forum, *Improving Customer Outcomes: The Combined Industry Forum response to ASIC Report 516: Review of mortgage broker remuneration,* November 2017, p. 3.

3. Trail Commission

The current standard broker commission model includes upfront commission paid on settlement of a loan, and trail commission paid over the life of a loan. Trail commission is paid on the amortised drawn down amount net of offset account balances, or is based on facility utilised, and accordingly declines over the life of the loan. The standard broker commission model supports the broker in providing ongoing service to their customer base over time and recognises the economic value created by the broker for the lender. According to ASIC, on average, a broker business receives a trail commission of 0.14% of current loans.[13] This is per annum paid monthly.

Both ASIC and Treasury have indicated their support of trail within the standard broker commission model and have cautioned against the removal of trail, on the grounds that removal would reduce the incentive for brokers to put forward quality loans and to guard against arranging non-performing loans.

3.1 <u>The Benefits of Trail</u>

Trail commission contributes to positive consumer outcomes in a variety of ways, outlined below.

3.1.1 *Quality loans and aligned interests of the broker and customer*

Trail commission is contingent income paid by the lender to the broker (via the aggregator) which is dependent on a loan not being in arrears, not having been paid out or refinanced, or having involved fraud.

Because trail commission is not guaranteed, it operates as a control mechanism to encourage greater loan quality and better align the broker's interests with those of the customer. It encourages the broker to be relationship-focussed and take into account long-term needs and objectives of the customer, rather than being purely transactional or "one-off sale" focussed.[14] This view is supported by a recent Deloitte Access Economics report which states that "70% of a broker's business comes directly or indirectly from existing customers demonstrating high levels of customer satisfaction."[15]

ASIC has commented that:

> The payment of ongoing trail commissions usually provides an incentive to aggregators and brokers to put forward higher quality loans where consumers are less likely to default on their obligations. However, the option to waive trail commissions in favour of an upfront payment removes this incentive and is likely to increase the risk that aggregators and brokers will be less selective about which loans they put through to the lender...[16]

Further to the views of the regulator, Treasury's recent submission to the current Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry states that "removal of trails would … reduce incentives for brokers to guard against arranging non-performing loans and to not unnecessarily switch consumers to alternative loans that do not provide for a better deal."[17]

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[13] Australian Securities & Investments Commission, *Report 516 - Review of mortgage broker remuneration*, 16 March 2017, para. 28.

[14] See Combined Industry Forum, *Improving Customer Outcomes: The Combined Industry Forum response to ASIC Report 516: Review of mortgage broker remuneration*, 2017, p. 10.

[15] Deloitte Access Economics, *The Value of Mortgage Broking*, July 2018, p. 23.

[16] Australian Securities & Investments Commission, *Report 516 - Review of mortgage broker remuneration*, 16 March 2017, para. 432.

[17] The Treasury, *Financial Services Royal Commission – Submission on Key Policies*, 13 July 2018, para 259.

3.1.2 *Trail discourages churn*

The ASIC Report found that trail commissions operate as an incentive for brokers not to 'churn' their clients from one lender to another.[18] As Treasury has pointed out, this "is not a costless exercise" for both the customer and the lender.[19]

3.1.3 *Impact on competition*

The MFAA is firmly of the view that payment of trail commissions does not restrict competition or discourage customer switching or refinancing, as suggested by the Productivity Commission.[20] This is due to the fact that payments earned via refinancing will generally exceed existing trail, regardless of whether or not it is increasing over time. In fact, Treasury stated in its submission to the Royal Commission that trail commission can "discourage switching, for example, where they increase over the life of the loan."[21]

Treasury's submission to the Royal Commission states that:

> The removal of trails would … reduce incentives for brokers to guard against arranging non-performing loans and to not unnecessarily switch consumers to alternative loans that do not provide for a better deal. Refinancing is not a costless exercise, with real costs for both lenders and borrowers. In the United Kingdom, where trails are not used, concern over churn has led lenders to pay retention fees to brokers to encourage consumers not to switch lenders but refinance at a different rate.[22]

3.1.4 *Trail prevents higher upfront commissions*

Looking internationally, jurisdictions which do not use trail commissions alternatively have higher upfront commissions such as Canada that has an average upfront of 1.1%) with a significant average fixed term period.[23]

In order for the industry to continue in a meaningful way if trail commissions were removed, upfront commissions would need to increase substantially. The Productivity Commission has acknowledged that upfront commissions may rise as a consequence of removal of trail commission, at the same time recognising that broking businesses "would need to remain commercially viable."[24] A substitution of increased upfront commission for trail commission would, however, remove the contingency associated with the trail income and the control mechanism that it produces. This may result in a greater transactional focus by brokers which would not necessarily produce a good customer outcome.

3.1.5 *Impact on the sector*

It is the view of the MFAA that removal of trail commissions for mortgage brokers is likely to have a severe negative impact on the mortgage broking sector. The MFAA disagrees that trail commission is creating poor consumer outcomes or that there is any demonstrable rationale for removing it. Both ASIC and the Treasury have shown support, as detailed above, commenting on the usefulness of trail

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[18] Australian Securities & Investments Commission, *Report 516 - Review of mortgage broker remuneration*, 16 March 2017, para. 436.
[19] The Treasury, *Financial Services Royal Commission – Submission on Key Policies*, 13 July 2018, para 259.
[20] See Australian Productivity Commission, *Competition in the Australian Financial System*, 29 June 2018, p. 326.
[21] The Treasury, *Financial Services Royal Commission – Submission on Key Policies*, 13 July 2018, para. 246.
[22] Ibid, para. 259.
[23] Based on information from Mortgage Professionals Canada (March 2018).
[24] Australian Productivity Commission, *Competition in the Australian Financial System*, 29 June 2018, p. 22.

commissions and showing that trail commission caused no consumer detriment. Neither have called for it to be removed.

ASIC and Treasury have each highlighted the role trail plays in incentivising quality and warned that removal, or switching for a new upfront commission, would remove the incentive to guard against non-performing loans or risk brokers becoming less selective.

Treasury also cautioned that post-origination services could be impacted if trail commission was removed. Treasury stated, "if mortgage broking activity contracted, this could have a significant detrimental impact on competition in the mortgage market."[25] In relation to contemplation on any changes to the broker standard commission structure, Treasury went on to state:

> These changes, [to broker standard commission structure] alone or in combination, have the potential to be disruptive to an industry already facing significant change in light of the CIF proposals and tighter lending standards, and involve significant costs in transitioning to and bedding down any changes.[26]

Removal of broker trail commission will make a broking business unsustainable and would significantly impact the mortgage broking channel, forcing many brokers to exit leaving a massive gap in the level of credit advice available to consumers. According to Deloitte Access Economics, broker businesses earn $86,400 dollars (before tax) on average, which is a modest income, making them vulnerable to any reduction in remuneration.[27] Trail commission income is reportedly on average $56,000 (before costs) and would result in net income after cost, dropping below $50k on average.[28] Under current arrangements, trail provides a future income stream for the service a broker provides, which allows the broker to build value in their business.[29]

The MFAA believes that if trail commissions were removed, this would substantially rationalise the broker channel forcing many brokers out of business and driving customers back into bank branches to the detriment of all lenders that do not have a reasonable branch footprint. The result would be that competition across the industry would be impaired which would severely reduce choice and service particularly in regional and rural Australia where branch numbers appear to remain in decline. Whilst the mortgage broking channel has contributed to a fall in Net Interest Margins of three percentage points over the past 30 years,[30] weakening the channel and the competition it drives would likely result in an increase in Net Interest Margins to the detriment of all consumers taking out a home loan.

Importantly, brokers are small business operators in a sector that employs more than 27,000 people and in an industry that contributes nearly $2.9 billion to the Australian economy (in 2017).[31]

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[25] The Treasury, *Financial Services Royal Commission – Submission on Key Policies*, 13 July 2018, para. 261.
[26] Ibid, para. 263.
[27] Deloitte Access Economics, *The Value of Mortgage Broking*, July 2018, p. 12.
[28] Mortgage & Finance Association of Australia, *Industry Intelligence Service*, 5th ed., 1 Apr 2017 – 30 Sep 2017, p. 26. Note: The MFAA's Industry Intelligence Service (IIS) Report is compiled by *comparator* (a CoreLogic business).
[29] Combined Industry Forum, *Improving Customer Outcomes: The Combined Industry Forum response to ASIC Report 516: Review of mortgage broker remuneration*, 2017, p. 10.
[30] Deloitte Access Economics, *The Value of Mortgage Broking*, July 2018, p. 18.
[31] Ibid, p. 20.

3.1.6 *Impractical alternatives*

The current standard commission structure of upfront and trail is a reasonable remuneration model that supports a strong and competitive broking industry, and as demonstrated in the ASIC Report and the Sedgwick Review, has not been identified as driving systemic poor customer outcomes.

There are no alternative remuneration models which support a strong and competitive broking industry in practice. The MFAA and the CIF have made a rigorous assessment of the potential customer outcomes of a number of remuneration models and their variants, which were deemed to have potential unintentional consequences for customers. These alternative, impractical models include a consumer-paid fee-for-service model; the standardisation of upfront commission percentage; base commissions paid on the loan to value ratio; a flat lender fee; and the removal of lenders' and brokers' ability to discount interest rates and application fees.

4. Responses to questions in the Consultation Paper

In the light of the information provided above, herewith are our specific responses to the questions posed in the Consultation Paper as they relate to mortgage broking:

30. When should providers of a product or service be required to disclose financial incentives which would appear to bias consumer advice or recommendations?

The MFAA's view is that, disclosure should occur as early as possible when it is likely that credit assistance will be provided to a consumer by a mortgage broker. In the MFAA's view, this is what is required under current regulation as outlined in section 2 above.

31. What information should a trader be required to disclose to a consumer when referring a product or service?

In relation to residential financing, a mortgage broker should be required to disclose any remuneration in the form of 'upfront' and 'trail', and any payment to any other person and this is what is required under current regulation.

33. What industry sectors, other than financial services, feature commission selling that could lead to consumer detriment?

The MFAA has no comment to make on this question.

34. What would be a workable solution to balance the needs of industry and consumers where trailing commissions impact negatively on the market?

We note that neither the ASIC nor Sedgwick reviews found that the payment of trail commissions was identified as driving systemic poor customer outcomes.

We further note that both ASIC and Treasury have indicated their support of trail within the standard broker commission model and have cautioned against the removal of trail, on the grounds that removal would reduce the incentive for brokers to put forward quality loans and to guard against arranging non-performing loans.

In the light of the information provided above, it is the view of the MFAA, that trailing commission, in relation to residential property financing, acts as a control mechanism that encourages greater loan quality and better aligns the broker's interests with those of the customer and accordingly remains fit for purpose in its current form.

5. Conclusion

Mortgage brokers are subject to comprehensive disclosure requirements under the NCCP Act, which commence as soon as credit assistance is provided. Importantly, brokers are required to disclose commission (both upfront and trail) paid by the lender to the broker when assisting a borrower to secure residential finance. This disclosure is made in writing at least twice throughout a broker's dealings with a consumer. In response to the ASIC Report, the CIF has sought to build on existing statutory disclosure obligations by recommending multiple changes to the disclosure requirements and public reporting model. The reforms proposed by the CIF demonstrate the industry's commitment to improving disclosure standards, thereby supporting consumers to make more informed decisions.

Trail commissions were originally employed to prevent churn; however, the focus of trail has shifted in recent years to support brokers in servicing the customer over the life of a loan. As Treasury noted, "[s]ervices provided by brokers to customers after a loan has been arranged could also be affected if trailing commissions were removed."[32] The use of trail commission aligns interests between a lender, aggregator, broker and customer over the life of a loan. It prevents higher upfront commission; encourages brokers to put forward higher quality loans; and discourages 'churn'. The removal of trail would weaken the broker channel and decrease choice, competition and service - particularly in regional Australia. Moreover, the ASIC Report failed to identify trail commission as "directly leading to poor consumer outcomes."[33] With these factors in mind, trail commission forms an important and necessary part of the broker commission model and should be retained as such.

[32] The Treasury, *Financial Services Royal Commission – Submission on Key Policies*, 13 July 2018, para. 259.
[33] Australian Securities & Investments Commission, *Report 516 - Review of mortgage broker remuneration*, 16 March 2017, para. 439.