

NOTICE OF LODGMENT
AUSTRALIAN COMPETITION TRIBUNAL

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Lodgment and Details

Document Lodged:	Outline of submissions
File Number:	ACT 1 of 2023
File Title:	APPLICATIONS BY AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED AND SUNCORP GROUP LIMITED



REGISTRAR

Dated: 20/11/2023 4:38 PM

Important information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Tribunal and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.



COMMONWEALTH OF AUSTRALIA

Competition and Consumer Act 2010 (Cth)

IN THE AUSTRALIAN COMPETITION TRIBUNAL

File No: ACT 1 of 2023

Re: Application by Australia and New Zealand Banking Group Limited and Suncorp Group Limited for review of Australian Competition and Consumer Commission Merger Authorisation Determination MA1000023-1

Applicants: Australia and New Zealand Banking Group Limited and Suncorp Group Limited

OUTLINE OF SUBMISSIONS

BENDIGO AND ADELAIDE BANK LIMITED

This document contains confidential information which is indicated as follows:

[Confidential to ANZ] [...] for Australia and New Zealand Banking Group Limited.

[Confidential to Suncorp] [...] for Suncorp Group Limited and its related bodies.

[Confidential to Bendigo] [...] for Bendigo and Adelaide Bank Limited and its related bodies.

[Confidential to a third party] [...] for a non-party.

A INTRODUCTION

- 1 The Tribunal should not be satisfied that the proposed acquisition of Suncorp-Metway Limited (**Suncorp Bank**) by Australia by New Zealand Banking Group Limited (**ANZ**) will not have the effect, or likely effect, of substantially lessening competition in the national home loans market and agribusiness banking markets in Queensland. ANZ is one of just four major banks in the Australian banking sector (**Major Banks**). The Major Banks dominate the national home loans market, with over 75% market share, and enjoy significant structural advantages over smaller banking institutions, including regional banks like Bendigo and Adelaide Bank Limited (**BEN**). If the proposed acquisition proceeds, ANZ will further consolidate its market position and structural advantages as a Major Bank without engaging in competition, to the substantial detriment of competition in both home loans and agribusiness markets.
- 2 In a future without the proposed acquisition, there is a commercially realistic likelihood of a merger between BEN and Suncorp Bank (**BEN counterfactual**). The merger parties urge the Tribunal to discard the BEN counterfactual with the effect of diminishing the likely effects on competition of the proposed acquisition. BEN and Suncorp Bank have compelling incentives to merge, there has been serious and credible communications between the parties to advance such a merger, [REDACTED] and BEN has the capacity to make a compelling offer for Suncorp Bank at a value accretive to shareholders of both companies. By contrast, in opposing the BEN counterfactual, SGL now says that analysis undertaken by its advisors since the announcement of the proposed acquisition should be preferred, despite having been prepared for an advocacy purpose with the ACCC and demonstrating significant inconsistencies with earlier modelling. The Tribunal should give no or little weight to this analysis.
- 3 A merged BEN/Suncorp Bank would be a substantially stronger competitor against the Major Banks. The merged entity would have increased scale and synergies (reducing the structural gap between the regional banks and the Major Banks), greater efficiency and the propensity to accelerate technological innovations. Whether the merged BEN/Suncorp Bank would gain a credit uplift relative to BEN's current credit rating, and also achieve advanced internal ratings-based (**IRB**) accreditation from APRA is not determinative to the BEN counterfactual. But it would further enhance the ability of the merged entity to compete against the Major Banks in the relevant markets.
- 4 In a future with the proposed acquisition:
 - (a) There is a real chance of a substantial lessening of competition in the national market for home loans, whether compared to the status quo or BEN counterfactual. The ACCC's and BEN's expert economists agree that there is evidence of coordinated conduct in the national home loans market, and that market has features which make it conducive to such conduct. The proposed acquisition is likely to increase coordinated conduct in the home loans market, including because ANZ will have substantially reduced incentives to compete with other Major Banks for market share. By contrast, in a future with the BEN counterfactual, there would likely be less coordinated conduct in the national home loans market because a merger between BEN and Suncorp Bank would create a second mid-tier challenger bank, along with Macquarie Bank, with sufficient scale, which would apply significant increased competitive pressure on the Major Banks and disrupt coordination.
 - (b) There is a real chance of a substantial lessening of competition in the markets for agribusiness products in Queensland, whether analysed as separate markets or at the state-wide level. ANZ and Suncorp Bank are direct competitors in those markets each with significant market share.

The proposed acquisition will remove Suncorp Bank as a key competitor and substantially increase ANZ's market share. It will also remove a provider which presently offers a differentiated, relationship-based and bespoke service to agribusiness customers. This outcome would be avoided in both the status quo and BEN counterfactual.

- 5 These submissions are structured as follows. Part B explains why the BEN counterfactual is a commercially realistic likelihood. Part C addresses BEN's significantly enhanced competitive position in a future with the BEN counterfactual. Parts D and E consider the substantial lessening of competition that will arise in a future with the proposed acquisition in both the national market for home loans and the Queensland markets for agribusiness banking products, respectively. In Part F, the submissions briefly touch on the public benefits that are common to both the proposed acquisition and the BEN counterfactual, and identify the detriments which only arise in the former. Part G concerns BEN's limited submissions on the relevant markets.

B BEN COUNTERFACTUAL IS A COMMERCIALY REALISTIC LIKELIHOOD

B1 The merger parties' erroneous approach to the counterfactual analysis

- 6 SGL urges the Tribunal to dismiss the BEN counterfactual, including because it "renders the necessary counterfactual analysis very complicated".¹ As further developed in the remainder of this Part B, the BEN counterfactual is a commercially realistic likelihood. BEN and Suncorp Bank both have strong incentives to merge. The merger would attract substantial benefits of scale, efficiency and improved returns on investment for shareholders. SGL wants to divest Suncorp Bank since it sees itself as a "pureplay" insurer. A merger between BEN and Suncorp Bank would be value accretive to BEN and SGL shareholders, and BEN has the capacity to make a compelling offer. Reflecting the strength of the BEN counterfactual, prior to the proposed acquisition, both [REDACTED] BEN has actively pursued engagement with SGL in relation to a merger of BEN and Suncorp Bank. For these reasons, the BEN counterfactual is also more likely than Suncorp Bank remaining within SGL in a future without the proposed transaction (**status quo counterfactual**), although even if it were not, the BEN counterfactual remains relevant and critical to the analysis. "Likely" does not mean more probable than not, but merely requires an assessment of commercial circumstances that have a "real chance" of occurring as opposed to mere possibilities.²
- 7 SGL further submits that the Tribunal should consider the BEN counterfactual could only affect the substantive competition analysis if the BEN/Suncorp Bank merged entity were likely to be a "materially more effective competitor than [BEN] and Suncorp Bank on their own".³ It is well settled that proper analysis for the purposes of s 90(7)(a) of the CCA requires a comparison between the nature and extent of competition in any market potentially affected by the proposed conduct in the future with and without the proposed conduct.⁴ In this case, the appropriate enquiry is to consider whether there is a real commercial likelihood of the BEN counterfactual and, if so, compare the BEN counterfactual against a future with the proposed acquisition. There may also be an additional enquiry to compare the status quo counterfactual against a future with the proposed acquisition. However, if the Tribunal were to compare the BEN counterfactual with BEN and Suncorp Bank as competitors on their own, as SGL suggests, it would be carrying out a "before and after" test rather than a "future with" and "future without" test.⁵ That would be erroneous.

¹ Outline of submissions for Suncorp Group Limited dated 9 November 2023 (**SGL submissions**), [4].

² *ACCC v Pacific National Pty Ltd* (2020) 277 FCR 49 at [245]-[246].

³ SGL submissions, [5].

⁴ *ACCC v Pacific National Pty Ltd* (2020) 277 FCR 49 at [103].

⁵ *Re Queensland Independent Wholesalers Ltd* (1995) 132 ALR 225 at 276 per Lockhart J.

8 It is also a distraction for the Tribunal to consider SGL's contention that it should have regard to whether BEN is likely to merge with Bank of Queensland (BOQ) in assessing the competitive effect of the proposed acquisition.⁶ Consideration of whether BEN would in the future merge with another regional bank, including BOQ, if the proposed acquisition were permitted to proceed is not required, including because it is a speculative possibility rather than a real commercial likelihood

B2 BEN / Suncorp Bank merger is compelling and value accretive

9 BEN and Suncorp Bank each has compelling incentives to merge. A BEN/Suncorp Bank merger would [REDACTED]

[REDACTED] The merger would bring about a significant increase in scale by combining two regional banks. [REDACTED]

[REDACTED] A merger with Suncorp Bank would be value-accretive to BEN's and SGL's shareholders. [REDACTED]

[REDACTED]

10 By contrast, [REDACTED] [REDACTED] However, that analysis is unreliable in several respects.

11 *First,* [REDACTED]

⁶ SGL submissions, [5].

[REDACTED]

[REDACTED]

12 *Secondly,*

[REDACTED]

[REDACTED]

13 *Thirdly,*

[REDACTED]

[REDACTED] None of this suggests that a BEN/Suncorp merger would be value dilutive for BEN shareholders.

B3 SGL wants to divest Suncorp Bank by way of a regional merger

14 SGL wants to divest Suncorp Bank and become a “pureplay” insurer.

[REDACTED]

[REDACTED]

[REDACTED]

³⁰ ACCC Reasons, p 5, [5.31], [5.86].

15

[REDACTED]

16

[REDACTED]

17

[REDACTED]

18

[REDACTED]

³¹ See, for example, [REDACTED]

³⁴ See, for example, [REDACTED]

[REDACTED]

[REDACTED]

19 SGL also submits that the unwinding of the conglomerate discount would not be a factor motivating SGL to enter into a regional merger with BEN.⁵⁰

[REDACTED]

20 [REDACTED]

21 [REDACTED]

There are several difficulties with this contention. *First,*

22 *Secondly,* the requirements of s 64 of the Metway Merger Act extend only to the domicile of the head office, managing director and the offices of certain company personnel and principal company services. They do not apply to branch offices and general branch staff.

[REDACTED]

⁵⁰ SGL submissions, [17].

[REDACTED]

⁵⁷ Submissions of the State of Queensland, [13]; [REDACTED]

[REDACTED]

23

Thirdly,

24

Fourthly,

[REDACTED] However, SGL fails to acknowledge that at least some of its Queensland commitments are pre-existing promises, including its financial commitments to the Disaster Response Centre.⁶² It is not likely that SGL would fail to honour these pre-existing promises in a regional merger with BEN. In any event, [REDACTED] there is no logical or established connection between the size of BEN's commitments to Queensland and the timing of the realisation of synergies.⁶³

25

SGL is also wrong to suggest that [REDACTED]

However,

26

Again,

[REDACTED]

⁶² Submissions of the State of Queensland, [19].

[REDACTED]

[REDACTED]

27 SGL is also wrong to suggest that

[REDACTED]

While it is true that scale alone does not trigger IRB accreditation, as Ms Starks observes “[g]iven the costs and data requirements for developing an IRB model, smaller banks tend to be [standardised approach] banks and larger banks tend to be IRB banks.”⁷⁵ Indeed, aside from the Major Banks, only Macquarie and ING Australia currently use IRB models.⁷⁶ As discussed below,

[REDACTED]

As the ACCC found, “a merged BEN/Suncorp Bank entity would have the benefit of increased scale, and could potentially achieve greater benefits from having a larger, more diverse portfolio of loans, allowing better, more granular modelling of risk.”⁷⁷ Additionally,

[REDACTED]

[REDACTED]

[REDACTED]

28 Finally,

[REDACTED]

[REDACTED]

Moreover,

⁷² See, for example, [REDACTED]

[REDACTED]

⁷⁵ Expert Report of Mary Starks, 16 June 2023 (Starks 1), [3.12], 71925.040.001.0171 at.0182.

⁷⁶ Starks 1, [3.12], 71925.040.001.0171 at.0182.

⁷⁷ ACCC Reasons, [5.154].

[REDACTED]

[REDACTED]

29 As to the need to deal with BEN's existing consolidation of its core banking platforms prior to the integration of Suncorp Bank, BEN has completed consolidation of four of its banking platforms, and is progressing with its transition to cloud-based applications.⁸⁷ BEN's remaining three banking platforms will be consolidated into the core banking platform in the next 18 months to two years, and it is completing its modernisation program in parallel.⁸⁸ [REDACTED]

[REDACTED]

[REDACTED] BEN does not need to undertake any significant changes to its core systems to accommodate Suncorp Bank's customer base. Moreover,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] this does not mean that synergies would not begin to be realised earlier. For these reasons, there is unlikely to be any significant delay in the realisation of technology-based synergies, and nothing in the order of 3-4 years as SGL suggests.

B4 History of serious and credible communications to merge with Suncorp Bank

30 There has been a history of communications between BEN and SGL on a merger between BEN and Suncorp Bank. BEN committed significant resources to developing a proposal. BEN remains committed to pursuing a regional merger with Suncorp Bank. Since the announcement of the proposed acquisition, BEN has developed analysis that demonstrates that it is in a position to offer a compelling proposal that remains accretive for BEN and SGL shareholders. It has also [REDACTED]

[REDACTED]

31 [REDACTED]

32 [REDACTED]

[REDACTED]

⁸⁷ BEN submissions, 30 June 2023, [2.6], [2.8].

⁸⁸ BEN submissions, 30 June 2023, [2.6].

[REDACTED]

[REDACTED]

33

[REDACTED]

34

[REDACTED]

35

[REDACTED]

36

[REDACTED]

[REDACTED]

[REDACTED]

37 On 18 July 2022, SGL announced that it had entered into an agreement to sell Suncorp Bank to ANZ.¹⁰⁸ [REDACTED]

[REDACTED]

38 [REDACTED]

39 [REDACTED]

40 [REDACTED]

B4 BEN has ability to merge with Suncorp Bank

41 As noted in [REDACTED] [REDACTED] BEN could acquire Suncorp Bank [REDACTED]

42 BEN is a well-managed bank with a record of strong financial performance. [REDACTED] In the half-year to December 2022 (the most up to date financial statements before the ACCC), BEN's cash earnings were up 22.9% to \$294.7m, its customer volume was up by 5%, its CET1 was up 45bps to 10.13%

¹⁰⁸ SML.0003.0001.1238.

[REDACTED]

¹¹⁴ BEN.001.003.0012 at _0017.

[REDACTED]

and its net interest margin was up 19bps to 1.88%.¹¹⁸ BEN has strong funding and liquidity, with customer deposits comprising 73.9% of its total funding base,¹¹⁹ and a household deposit/loan ratio that significantly exceeds industry levels.¹²⁰

C BEN'S COMPETITIVE POSITION WILL SIGNIFICANTLY IMPROVE IN A FUTURE WITH THE BEN COUNTERFACTUAL

43 In a future with the proposed acquisition, BEN would be foreclosed from the opportunity to merge with Suncorp Bank. By contrast, under the BEN counterfactual, the merged entity would be a significantly enhanced competitor to the Major Banks. BEN's improved competitive position would arise from the merged entities': (i) increased scale and efficiency; (ii) increased investment in innovation and technology; (iii) increased deposit funding; and (iv) an enhanced capacity to raise capital, particularly through institutional investments. In addition, the merged entity would be better placed to achieve an upgrade in its credit rating and IRB accreditation.

C1 BEN would achieve benefits of increased scale in the BEN counterfactual

44 The Productivity Commission (PC) concluded in its 2018 report that "[t]he major banks' market power is a defining feature of the financial system".¹²¹ As at May 2023, CBA had a 21.34% share of total banking system assets; Westpac had a 19.24% share; NAB had 17.79% and ANZ had 13.23%.¹²² On the same date, BEN's share was 2.04%, while Suncorp Bank's was less, at 1.75%.¹²³ The difference between the market share of the Major Banks and that of the mid-tier providers in the national home loans market is even more stark. As at December 2022, CBA had a 25.80% market share in the national retail home loans market; Westpac had a 21.4% market share; NAB had 14.8% and ANZ had 13.14% market share.¹²⁴

45 The PC noted that the substantial market power held by the Major Banks reflects their entrenched structural advantages over smaller competitors, including through their well-known brands, geographic reach, perceived stability and lower costs.¹²⁵ The Major Banks' most powerful advantage over smaller institutions, the PC noted, is their ability to raise funds at lower costs. Their "too big to fail" status has garnered implicit government guarantees that have enabled the Major Banks to maintain better credit ratings and, in turn, lower costs of funds.¹²⁶

46 As a result of their substantial market power, the Major Banks "have the ability to pass on cost increases and set prices that maintain high levels of profitability – with minimal loss of market share".¹²⁷ Between 2007 and 2022, the return on equity (ROE) of the Major Banks was among the highest in a sample of international peers.¹²⁸ By contrast, [REDACTED]

47 The proposed acquisition would increase ANZ's market share in home loans to 15.5%,¹³⁰ allowing it

¹¹⁸ 71925.020.001.6611 at .6627.

¹¹⁹ 71925.020.001.6611 at .6627.

¹²⁰ 71925.020.001.6611 at .6637.

¹²¹ Productivity Commission, "Competition in the Australian Financial System, Inquiry Report No. 89" (June 2018) (PC Report), p 4, 71925.002.001.7983 at .7998.

¹²² ACCC Reasons, Table 1 p 31.

¹²³ ACCC Reasons, Table 1 p 31.

¹²⁴ Expert Report of Stephen King dated 3 March 2023 (King 1) at [79(a)], 71925.020.001.6300.

¹²⁵ PC Report, p 97, 99, 71925.002.001.7983 at .8091, .8093.

¹²⁶ PC Report, p 99, 71925.002.001.7983 at .8093.

¹²⁷ PC Report, Finding 3.2, 71925.002.001.7983 at .8031.

¹²⁸ ACCC Reasons, [4.63].

¹²⁹ Second Witness statement of Shayne Elliott, 17 May 2023, Figure 2, 71925.034.001.1622; [REDACTED]

¹³⁰ King 1, [79(d)], 71925.020.001.6300.

to overtake NAB's market share without engaging in competition.¹³¹ The proposed acquisition would also result in increased concentration amongst the Major Banks, with the standard deviation in the market shares of the Major Banks falling from 5.1% to 4.51%, and the gap between the largest and smallest of the Major Banks reducing from 12.7% to 11%.¹³²

[REDACTED]

48 While ANZ now claims that the increase in its market share that would follow from the proposed acquisition would be "*de minimis*",¹³⁴ the true competitive significance of that increase is revealed by ANZ's stated rationale for the proposed acquisition.

[REDACTED]

49 The PC found that smaller banks and non-bank institutions have in the past typically followed the pricing trends set by the Major Banks and have not applied significant competitive constraint on the Major Banks' market power due to the structural disadvantages smaller banks face.¹³⁹ However, in a future with the BEN counterfactual, the merged entity's share in the national home loans market would almost double from 2.8%¹⁴⁰ to 5.2%.¹⁴¹ BEN would become the fifth largest competitor in that market,¹⁴² and the number of institutions with a greater than 5% market share would expand from 5 to 6.¹⁴³ The merged BEN / Suncorp Bank

[REDACTED]

The BEN counterfactual would represent a substantial change in market dynamics and substantially increase the ability of the merged entity to exert competitive constraint on the Major Banks. It would enable BEN to provide a stronger regional bank alternative to Australian consumers and, for the reasons below, likely result in substantially greater competition on price, service and innovation when compared with the proposed acquisition.

C2 Improved efficiency and greater technology investment in the BEN counterfactual

50 A common theme in [REDACTED] In this area, regional banks such as BEN

¹³¹ Bluenotes (ANZ), "Elliot: A Transformational Advance for ANZ", <https://bluenotes.anz.com/posts/2022/07/anz-ceo-shayne-elliott-suncorp-bank-acquisition-news>.

¹³² King 1, [79(f)], 71925.020.001.6300.

¹³⁴ ANZ SOFIC [29(b)(i)].

[REDACTED]

¹³⁹ PC Report, Finding 3.2, 71925.002.001.7983 at .8031.

¹⁴⁰ ACCC Reasons, Table 2 at p 100.

¹⁴¹ King 1, [79(g)], 71925.020.001.6300.

¹⁴² King 1, [79(g)], 71925.020.001.6300.

¹⁴³ Starks 1, [9.45.2]-[9.45.4], 71925.040.001.0171 at 0282.

[REDACTED]

and Suncorp Bank face significant structural disadvantage.

[REDACTED]

51 However,

[REDACTED]

52

[REDACTED]

53 The scale of a merged BEN/Suncorp Bank entity

[REDACTED]

Under examination,

C3 BEN would attract increased deposit funding in the BEN counterfactual

54 BEN relies largely on deposits as a source of funding, with its ratio of household deposits funding

[REDACTED]

¹⁵⁶ BEN.001.001.0718_0088.

[REDACTED]

household loans at 73.9%, as at 31 December 2022.¹⁵⁹

55 The PC has observed that while smaller banks have offered better rates in the past, “their ability to attract more deposits is dampened by the major banks market dominance, the ‘flight to safety’ and generally low levels of customer switching.¹⁶⁰ The scale of the Major Banks also contributes to brand recognition and the perception that they are safer and more stable institutions than smaller providers.¹⁶¹ The Major Banks are able to source funds from investors and depositors at lower interest rates, and therefore higher margins, than smaller institutions.¹⁶² This is reflected in the market share dominance of the Major Banks, which each have a national share of deposits between 12.7% and 25.1% and an aggregate national share of 74.1%.¹⁶³ By contrast, BEN has just 2.5% [REDACTED]

56 Increased scale in the BEN counterfactual will see an immediate increase in the merged entity’s national share of deposits from 2.5% to 4.3%.¹⁶⁴ [REDACTED] and become a more attractive alternative for deposits. Access to lower cost of funds, which generally comes with increased size and scale, underpins the major banks’ market power.¹⁶⁶ If it merged with Suncorp Bank, BEN “could leverage its enhanced scale to increase its access to lower cost funds such as deposit funding”.¹⁶⁷ [REDACTED]

57 A merged BEN/Suncorp Bank entity will also have the scale to invest in further digital innovation to attract increased deposits. In 2018, BEN launched the “Up” mobile-only digital banking up, which focused on providing innovative features to encourage deposits, such as monthly free-fee accounts, payment requests, splitting features and saver pool accounts.¹⁶⁹ However, [REDACTED]

C4 There would be a real chance of a credit uplift for BEN in the BEN counterfactual

58 As indicated above, the prospect of a merger between BEN and Suncorp Bank resulting in a credit rating uplift for the merged entity is not determinative to the BEN counterfactual. There are substantial synergies and value accretion of the transaction (explained above). In any event, it is likely this would occur. [REDACTED]

[REDACTED] While it may be accepted that once Suncorp Bank is removed from SGL, it will lose that support, [REDACTED]

¹⁵⁹ ‘Appendix 4D Half Year Results for the period ended 31 December 2022’, 20 February 2023:

<https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/financialresults/appendix-4d-half-year-results-2023.pdf>, at p 27.

¹⁶⁰ PC Report, p 231, 71925.002.001.7983 at .8225.

¹⁶¹ PC Report, p 102; 71925.002.001.7983 at .8096; [REDACTED]

Witness Statement of Isaac Rankin (ANZ), 30 November 2022, [90], 71925.002.001.9102.

¹⁶² PC Report, p 6, 71925.002.001.7983 at .8000.

¹⁶³ BEN submissions, 3 March 2023, p 33, Table 3, 71925.020.001.7324 at .7360.

¹⁶⁴ BEN submissions, 3 March 2023, Table 1, 71925.020.001.7324 at .7352.

¹⁶⁶ King 1, [106b], [111], 71925.020.001.6300.

¹⁶⁷ King 1, [125(b)], 71925.020.001.6300.

¹⁶⁹ Up, “About”: <http://up.com.au/about/>.

[REDACTED]

59

[REDACTED]

[REDACTED]

[REDACTED] As Ms Starks observes,

[REDACTED] “the magnitude of these funding cost increases remains relatively small”, and would not mean that BEN/Suncorp Bank could not be an effective competitor in a future without the proposed acquisition.¹⁸⁰

60

Finally, as to Mr Ali’s concerns regarding the potential need for a merged BEN/Suncorp Bank to

[REDACTED]

[REDACTED] Moreover, [REDACTED] Accordingly, [REDACTED]

C5 IRB accreditation

61

Likewise, the prospect of the merged BEN / Suncorp Bank obtained advanced IRB is not determinative to the BEN counterfactual, but is more likely to occur. APRA accepts that advanced IRB accreditation allows IRB banks to maintain headline risk-weights 14% lower than in the standardised approach and, [REDACTED] this allows IRB banks to price more competitively and win more business within existing markets.¹⁸⁴ Mr Johnston agrees, observing that “[r]egional banks do not benefit from APRA advanced accreditation on risk weights, which provides a relative

[REDACTED]

¹⁸⁰ Starks 2, [6.14], 71925.043.001.0464 at .0489-.0490.

[REDACTED]

¹⁸⁴ APRA, “Is the capital benefit of being an advanced modelling bank justified?”, 23 May 2023, <https://www.apra.gov.au/news-and-publications/capital-benefit-of-being-an-advanced-modelling-bank-justified>; ACCC Reasons [5.154].

disadvantage for capital efficiency and return on equity”.¹⁸⁵

62

[REDACTED]

63 Ms Starks considers that a merged Bendigo/Suncorp Bank is likely to pose a stronger competitive threat in circumstances where the Bendigo/Suncorp Bank business attains IRB accreditation.¹⁸⁸

[REDACTED]

[REDACTED] On APRA’s view, IRB banks receive an average pricing benefit of 5bps, although [REDACTED]

64

[REDACTED]

D SUBSTANTIAL LESSENING OF COMPETITION IN THE HOME LOANS MARKET

D1 Coordinated conduct in the home loans market

65 As already noted, the Major Banks dominate the home loans market, [REDACTED]. [REDACTED] The PC observed in its report that the level of concentration in the market provides significant advantage to the Major Banks “in a context where size is strongly associated with safety”.¹⁹⁶ It found that the “major banks benefit from advantages of scale, scope and branding...which give them substantial market power and the ability to remain broadly insulated from competitive threats imposed by smaller incumbents or new entrants.”¹⁹⁷

66 The home loans market exhibits low levels of switching, which consolidates the Major Banks’ structural advantage.¹⁹⁸ As a consequence of the market concentration and structural advantage of

¹⁸⁵ First Witness Statement of Steven Johnston, 25 November 2022, [31b], SML.0004.0001.0061 at .0070.

¹⁸⁸ Starks 1, [9.113.5], 71925.040.001.0171 at .0309.

¹⁹⁶ PC Report, p 97, 71925.002.001.7983 at .8091.

¹⁹⁷ PC Report, p 104, 71925.002.001.7983 at .8098.

¹⁹⁸ PC Report, p 7, 71925.002.001.7983 at .8001.

the Major Banks, prices for banking products, including home loans, tend to cluster. The Major Banks aim to maintain a mostly uniform position rather than compete vigorously on price.¹⁹⁹ The PC found that smaller institutions will follow Major Banks' pricing decisions, and this approach results in prices that generally reflect the cost incurred by the least efficient Major Bank, rather than the most efficient bank.²⁰⁰

- 67 Similarly, the ACCC's 2018 Residential Mortgage Price Inquiry found evidence of an "accommodative and synchronised approach to pricing" between the Major Banks enabled by their oligopoly market structure.²⁰¹ At that time, the ACCC analysed interest rate increases by ANZ and considered that ANZ's behaviour reflected its strategic interdependence with the other Major Banks and that ANZ was "unlikely to have chosen to increase its interest rates without the expectation that its competitors would follow its lead".²⁰² The ACCC noted in its inquiry report that there had been a "history of such behaviour" by the Major Banks.²⁰³
- 68 While the PC acknowledged that there was some competition on non-price features and services, it also noted that the marginal differences between the wide array of products on offer was more reflective of a capacity for price discrimination rather than competition.²⁰⁴ Moreover, as Ms Starks has observed in her expert report, the absence of positive evidence of coordinated conduct in relation to non-price features such as turnaround times does not "rule out a 'live and let live' form of coordination in these aspects where the major banks tacitly agree to refrain from active competition".²⁰⁵
- 69 Professor King considers that the findings of the PC and ACCC set out above are sufficient to characterise the conduct of the Major Banks as coordinated conduct.²⁰⁶
- 70 It has, however, been observed that there has been recent evidence of increased competition in the home loans market between the Major Banks.²⁰⁷ However, this phenomenon should be given no or little weight to the competition analysis in this matter for the following reasons.
- 71 *First*, the evidence of recent competition in the market appears to be short term only. As Ms Starks notes, the recent increase in pricing competition may be driven by a sudden increase in refinancing demand in response to the rapid increase in interest rates after a long period in which rates were low. Ms Starks observes that 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".²⁰⁸ That there is only a short-term suspension of some aspects of coordination is supported by reports in May 2023 that CBA, Westpac and NAB have announced that they are ending their cashback offers for home loans, which suggests that competition in the market may be beginning to ease.²⁰⁹
- 72 *Secondly*, the evidence of both the ACCC's and BEN's expert economists is that the home loans market is structurally conducive to coordinated conduct, irrespective of whether that conduct is apparent. Ms Starks states that this conduciveness to coordinated conduct arises from the lack of price transparency, the concentration in the market power of the Major Banks, ease of communication in pricing changes, multi-market contact, a frequency of interaction between

¹⁹⁹ PC Report, p 97, 71925.002.001.7983 at .8091.

²⁰⁰ PC Report, p 97, 71925.002.001.7983 at .8091.

²⁰¹ ACCC Residential Mortgage Price Inquiry final report, November 2018 at p 6, 71925.046.001.5365 at .5373.

²⁰² ACCC Residential Mortgage Price Inquiry final report, November 2018 at p 8, 71925.046.001.5365 at .5375.

²⁰³ ACCC Residential Mortgage Price Inquiry final report, November 2018 at p 8, 71925.046.001.5365 at .5375.

²⁰⁴ PC Report, Finding 3.1, 71925.002.001.7983 at .8031.

²⁰⁵ Starks 1, [9.67], 71925.040.001.0171 at .0287.

²⁰⁶ King 1, [81], 71925.020.001.6300.

²⁰⁷ Starks 1, [9.70], 71925.040.001.0171 at .0288.

²⁰⁸ Starks 1, [9.80], 71925.040.001.0171 at .0297.

²⁰⁹ Starks 2, [8.4], 71925.043.001.0464 at .0509-.0510.

ANZ's position as the weakest of the Major Banks is likely to continue, undermining any incentives for ANZ to engage in coordinated conduct and increasing the likelihood of ANZ competition between the Major Banks to the benefit of customers.²²³

D3 The BEN counterfactual will decrease future coordinated conduct

78 Professor King's view is that a mid-tier bank with sufficient scale can become a significant competitor in the national market for home loans.²²⁴ Macquarie Bank is the prototype example. As (Douglas) John Campbell states in his witness statement, "[t]he rapid expansion of Macquarie's home loan business over the last 3 to 4 years has been one of the key features of competition in relation to home loans over that period.²²⁵ Macquarie Bank's improved market share is consistent with coordinated conduct by the Major Banks, as their pricing "opens the possibility for a (slow) decline in market share as smaller banks that are not engaged in the coordinated conduct are able to engage in pricing and other conduct that is more competitive than the conduct of the major banks".²²⁶ In addition to processes that reduce switching costs for consumers, Macquarie Bank's recent competitive success can be attributed to scale, which allows Macquarie Bank to be an IRB bank,²²⁷ pay the major bank levy, receive implicit government support, have a higher credit-rating and reduce the cost of its funds. Macquarie Bank is, for these reasons, able to reduce the "funding gap" identified by the PC that structurally underpins the market power of the Major Banks.²²⁸

79 As noted above, in the BEN counterfactual, a merged BEN/Suncorp Bank would have greater market share in the home loans market than Macquarie Bank. A merged BEN/Suncorp Bank will have the scale and synergies to overcome or alleviate barriers to competition in the market for home loans.²²⁹ Unlike the proposed acquisition, which is likely to increase coordinated conduct, a merged BEN/Suncorp Bank would mean that there are two "challenger" mid-tier banks in the home loans market.²³⁰

80 In that regard, the BEN/Suncorp Bank would operate as a substantially enhanced competitive constraint on the Major Banks. This is because while Macquarie Bank has a strategic focus on simple applications [REDACTED] which it can turn around relatively quickly, it has little customer contact with most customers applying for loans through brokers, and Macquarie Bank maintaining just three branches.²³² By contrast, [REDACTED]

[REDACTED] Such differentiation is likely to continue in a merged BEN/Suncorp Bank scenario.

81 If BEN/Suncorp Bank were able to achieve just half of the growth achieved by Macquarie Bank in the last decade, which has increased its market share by a factor of 4 in that time, a merged BEN/Suncorp Bank would be at 10.4%.²³⁵ Professor King expects that some, and potentially most,

²²³ King 1, [135], 71925.020.001.6300.

²²⁴ King 1, [105], 71925.020.001.6300.

²²⁵ First Witness Statement of (Douglas) John Campbell (ANZ), 30 November 2022, [52d], 71925.002.001.9234 at .9246.

²²⁶ Second Expert Report of Stephen King, 28 June 2023 (King 2), [47], 71925.042.001.0306.

²²⁷ King 1, [106], 71925.020.001.6300.

²²⁸ King 1, [106b], 71925.020.001.6300.

²²⁹ King 1, [126a], 71925.020.001.6300.

²³⁰ King 1, [126b], 71925.020.001.6300.

²³⁵ King 1, [126c], 71925.020.001.6300.

of the increased market share for Macquarie Bank and a merged BEN/Suncorp Bank would come from the Major Banks, including ANZ. He predicts that any steady decrease in the market share of the Major Banks will undermine their ability to engage in coordinated conduct.

- 82 Accordingly, Professor King’s view is that the proposed acquisition will substantially lessen competition in comparison to a future with the BEN/Suncorp Bank merger.²³⁶ Ms Starks agrees, noting that “the addition of another significant competitor in the competitive fringe will have a material impact in undermining coordination” and for this reason her view is that there is a real chance that the proposed acquisition could result in a substantial lessening of competition in the home loans market relative to the BEN counterfactual.²³⁷

E AGRIBUSINESS BANKING MARKETS

E1 The proposed acquisition will lead to a substantial lessening of competition in the Queensland agribusiness banking markets compared to a future with the status quo

- 83 The proposed acquisition will likely lead to a substantial lessening of competition in the Queensland agribusiness banking markets by removing Suncorp Bank as a vigorous and effective competitor for agribusiness customers.

- 84 Suncorp Bank is a strong competitor in the agribusiness markets in Queensland.²³⁸ The evidence suggests that Suncorp Bank and ANZ are the third and fourth largest agribusiness banks in Queensland, respectively.²³⁹ ANZ and Suncorp Bank are competitors across a broad range of agribusiness customers and are particularly close competitors for small to medium agribusiness customers in certain areas of regional Queensland.²⁴⁰ There is evidence of ANZ and Suncorp Bank winning agribusiness customers from each other,²⁴¹ and third parties have observed that ANZ and Suncorp are strong competitors.²⁴²

- 85 There is significant geographic overlap in ANZ and Suncorp Bank’s agribusiness banking operations in Queensland. They appear to overlap in the following towns: Ayr, Bundaberg Cairns, Townsville, Mackay, Rockhampton, Emerald, Roma, Dalby, Toowoomba, Goondiwindi and Chinchilla/Miles.²⁴³ Ms Starks notes that if the proposed acquisition were to proceed, there would be two towns with only one competitor present (Ayr and Chinchilla/Miles),²⁴⁴ and two towns with no independent regional bank post-acquisition (Cairns and Chinchilla/Miles).²⁴⁵

- 86 [REDACTED] Accepting that ANZ has a focus on larger agribusiness customers, while Suncorp Bank’s traditional customer base tends towards small-medium agribusinesses, there remains significant overlap and competitive tension. This is because larger banks such as ANZ are more focussed on high-volume traditional agribusiness lending, whereas Suncorp Bank may be more willing to understand complex or unique

²³⁶ King 1, [129], 71925.020.001.6300.

²³⁷ Starks 1, [9.113.5], 71925.040.001.0171 at .0309; Starks 2, [8.8], 71925.043.001.0464 at .0510.

²³⁸ First Witness Statement of Clive van Horen, 25 November 2022, [98], SML.0004.0001.0033 at .0054; First Witness Statement of Mark Bennett, 1 December 2022, [169], 71925.002.001.9551.

²³⁹ First Witness Statement of Mark Bennett, 1 December 2022, [205], 71925.002.001.9551.

²⁴⁰ BMAgBiz submission, 18 January 2023, 71925.007.001.0037 at .0037; Starks 1, [9.217], 71925.040.001.0171 at .0341.

²⁴¹ First Witness Statement of Mark Bennett, 1 December 2022, [167a]; [170]-[171], 71925.002.001.9551.

²⁴² BMAgBiz submission, 18 January 2023 71925.007.001.0037 at .0038.

²⁴³ Starks 1, [9.226], 71925.040.001.0171 at .0344; King 1 [152a], 71925.020.001.6300.

²⁴⁴ Starks 1, [9.229], 71925.040.001.0171 at .0346.

²⁴⁵ Starks 1, [9.240.1], 71925.040.001.0171 at .0348.

[REDACTED]; Starks 1, [9.240.3]-[9.240.6], 71925.040.001.0171 at .0348-.0349.

client situations and fund those clients through a more flexible and dynamic approach to lending.²⁴⁷ As BMAgBiz has observed in its submission, “[h]aving a bank that needs to compete in other ways than just targeting large established businesses with a lowball price is very important in the market”.²⁴⁸ If ANZ acquires Suncorp Bank, ANZ would likely align Suncorp Bank’s relationship model for agribusiness customers with its own.²⁴⁹ ANZ has strong incentives to do so, including because it considers that customers “prefer conducting their banking through digital means” and that technological innovations can “reduce (and often eliminate) the need to meet a relationship manager face-to-face to obtain a product.”²⁵⁰ By contrast, ANZ has little incentive to maintain Suncorp Bank’s specific relationship model and focus on service quality.

87 The removal of Suncorp Bank is likely to result in a substantial lessening of competition given the specific and diverse needs of agribusiness banking customers. There is some evidence that in a future without the proposed acquisition, Suncorp Bank intends to focus on growing its agribusiness portfolio [REDACTED].²⁵¹ By contrast, the proposed acquisition will reduce the number of competing firms in every local market where ANZ and Suncorp both operate,²⁵² and bring together two effective competitors so their direct competition ceases.²⁵³ There will be a substantial reduction in consumer choice and competition in non-price aspects, particularly for agribusiness customers with bespoke needs. Professor King and Ms Starks both agree that on this basis the proposed acquisition is likely to lead to a substantial lessening of competition in the agribusiness markets compared to the status quo counterfactual.²⁵⁴

E2 The proposed acquisition will lead to a substantial lessening of competition in the Queensland agribusiness banking markets compared to a future with the BEN counterfactual

88 A combined Bendigo / Suncorp Bank would or would likely impose a substantially enhanced competitive constraint compared to the proposed acquisition in agribusiness banking markets in Queensland. The activities of Suncorp Bank and BEN in both the Queensland agribusiness banking markets and across Australia are complementary rather than competitive. In Queensland, BEN’s share of farm lending is just [REDACTED], while Professor King estimates that Suncorp Bank’s share sits at approximately [REDACTED].²⁵⁵ Thus, there will be a marginal increase in the concentration of supply of agribusiness banking services in Queensland, [REDACTED].²⁵⁶ By contrast, BEN has [REDACTED] in farm lending in South Australia ([REDACTED]), Western Australia ([REDACTED]), Victoria ([REDACTED]), and Tasmania ([REDACTED]), while Suncorp Bank’s shares in these states are trivial.²⁵⁷

89 BEN and Suncorp Bank also have complementary business models, each having a focus on relationships and bespoke bank lending. Professor King observes that a merged BEN/Suncorp Bank entity would be able to “leverage” the Rural Bank brand held by BEN, which is “synonymous with agribusiness banking” and which BEN has aspirations to expand.²⁵⁸

90 Professor King and Ms Starks conclude that compared to the BEN counterfactual, there is a real

²⁴⁷ CowBank submission, 18 April 2023, 71925.030.001.0176 at .0177; BMAgBiz submission, 18 January 2023, 71925.007.001.0037 at .0038.

²⁴⁸ BMAgBiz submission, 18 January 2023, 71925.007.001.0037 at .0038.

[REDACTED] 71925.031.001.0143 at .0202; Starks

2, [7.23], [7.30]-[7.33], 71925.043.001.0464 at .0504-.0506.

²⁵⁰ Application by ANZ and SGL to the ACCC for merger authorisation, [27]-[29].

²⁵¹ First Witness Statement of Clive van Horen, 25 November 2022, [68b], SML.0004.0001.0033 at 0049.

²⁵² Starks 1, [9.240.1], 71925.040.001.0171 at .0348.

²⁵³ King 1, [177], 71925.020.001.6300.

²⁵⁴ Starks 1, [9.241.1], 71925.040.001.0171 at .0350; King 1, [181]-[182], 71925.020.001.6300.

²⁵⁸ First Witness Statement of Mark Bennett, 1 December 2022, [175], 71925.002.001.9551.

chance that the proposed acquisition will substantially lessen competition in the agribusiness markets in Queensland.²⁵⁹ Their respective conclusions would remain unchanged if the relevant agribusiness market encompassed the entirety of Queensland.²⁶⁰

F PUBLIC BENEFITS AND DETRIMENTS IN THE BEN COUNTERFACTUAL

91 BEN submits that certain claimed public benefits, to the extent the Tribunal accepts they are public benefits that should be taken into account under s 90(7)(b), would or would also be likely to arise in the BEN counterfactual.

92 *First*, BEN submits that self-evidently, any public benefits arising from divestment of Suncorp Bank, allowing SGL to focus on its insurance business, would also arise on the BEN counterfactual. Divestment of SGL's banking business will drive improvements and streamline SGL's operating model and support a pureplay insurance business with reduced complexity, and the capacity to simplify and automate its processes, and realise operational efficiencies.²⁶¹ However, as the ACCC observes, to the extent that operational efficiencies would be realised through divestment of the banking business, such efficiencies could also be realised in the BEN counterfactual.²⁶²

93 *Secondly*, any public benefits arising in the proposed acquisition from synergies and efficiency gains are also likely to arise in the BEN counterfactual. [REDACTED]

[REDACTED] As the ACCC notes, the weight to be accorded to efficiency gains through synergies is affected by the degree to which they are shared with consumers in the form of lower prices or improvements in quality.²⁶⁵ [REDACTED]

94 *Thirdly*, any public benefits arising from increased contributions to the major bank levy in future with the proposed acquisition are likely to arise in a future with the BEN counterfactual. Indeed, the BEN counterfactual is likely to result in a greater increase in total contributions to the major bank levy compared to the proposed acquisition as the combined Bendigo-Suncorp Bank's liabilities would become subject to the levy, and not just those of Suncorp Bank. BEN estimates that the combined entity's levy will be in the order of [REDACTED]

95 *Fourthly*, any benefits that may accrue to the Queensland economy or Queenslanders arising from the Queensland Commitments do not result from the proposed acquisition. The conduct for which ANZ has sought authorisation is the acquisition of shares and other assets relating to Suncorp Bank.²⁶⁸ The agreements under which the Queensland Commitments have been made do not form part of the conduct for which authorisation is sought. As the Tribunal noted in *Applications by Telstra Corporation Limited and TPG Telecom Limited (No 2)*,²⁶⁹ the statutory preconditions for authorisation in s 90(7) are directed to conduct that is the subject for application only. In any event, as the ACCC notes, to the extent that the Queensland Commitments involve profitable lending or other investment

²⁵⁹ King 1, [186], 71925.020.001.6300; Starks 1, [9.242.1], 71925.040.001.0171 at .0350.

²⁶⁰ King 1, [187], 71925.020.001.6300.

²⁶¹ Witness Statement of Steven Johnston, 25 November 2022, [46], [92], SML.0004.0001.0061 at .0074, .0082.

²⁶² ACCC Reasons, [7.27].

²⁶⁵ ACCC Reasons, [7.57].

²⁶⁸ Application for merger authorisation, 2 December 2022, [3.3]-[3.4].

²⁶⁹ [2023] ACompT 2, [144]-[145].

opportunities in Queensland, then it is likely that other banks, including a merged BEN/Suncorp Bank entity, would pursue them as well.²⁷⁰

96 BEN further submits that, for the reasons already canvassed in these submissions, the following public detriments would or would likely arise only from the proposed acquisition and not in the likely future in the BEN counterfactual:

- (a) competitive detriments in various markets in which ANZ and Suncorp Bank operate, including the markets for home loans and agribusiness banking; and
- (b) harm to the Australian retail banking industry, including further entrenching the oligopoly market structure which is highly concentrated and dominated by the Major Banks, and removing the real chance for a second-tier bank such as Bendigo to bolster its ability to effectively challenge the major banks through a step-change in scale.

G RELEVANT MARKETS

97 It is not in dispute that there is a national home loans market, and that it is relevant to the Tribunal's assessment of the merger parties' applications.²⁷¹

98 There are also relevant local or regional markets for the supply of banking products and services to agribusiness customers.²⁷² These markets are distinct from general markets for business banking products and services.²⁷³ As observed by ANZ's Head of Agribusiness, Mark Bennett, agribusiness customers require a tailored set of banking products and services that provide long-term funding with sufficient flexibility to accommodate seasonal farming cycles and cash-flow fluctuations.²⁷⁴ These products include core debt secured by farm land,²⁷⁵ farm management deposits which smooth out cashflow via tax concessions,²⁷⁶ and farm equipment financing.²⁷⁷

99 Markets for the provision of agribusiness products and services have a small geographic footprint because both demand-side and supply-side substitution is limited. On the demand-side, agribusiness customers expect from agribusiness bank managers specialised knowledge and understanding of the farming industry and assets, which in turn relies on an understanding of local area and farm conditions.²⁷⁸ Agribusiness customers also demand face-to-face relationships with bankers, with meetings typically occurring either at farm premises or nearby locations.²⁷⁹ As Mr. Bennett puts it, "agribusiness customers do not like it, and often complain, if their banker moves out of their region".²⁸⁰

100 On the supply-side, agribusiness managers must understand the specific strengths, risks and opportunities of each farm and local concerns in order to properly assess appropriate loan amounts, pricing, terms and conditions.²⁸¹ As Mr Bennett explains, this means that in order to supply agribusiness banking products and services, agribusiness bankers must have the capacity to visit

²⁷⁰ ACCC Reasons, [7.102].

²⁷¹ Suncorp SOFIC [19(a)]; ANZ SOFIC [16(a)]; BEN SOFIC [5(a)]; ACCC Reasons [6.43].

²⁷² BEN SOFIC, [7].

²⁷³ C.f. ANZ SOFIC [16(b)] and [17].

²⁷⁴ First Witness Statement of Mark Stephen Bennett, 1 December 2022, [32]-[43], 71925.002.001.9551.

²⁷⁵ First Witness Statement of Mark Stephen Bennett, 1 December 2022, [34]-[35], 71925.002.001.9551.

²⁷⁶ First Witness Statement of Mark Stephen Bennett, 1 December 2022, [39], 71925.002.001.9551.

²⁷⁷ First Witness Statement of Mark Stephen Bennett, 1 December 2022, [41], 71925.002.001.9551.

²⁷⁹ First Witness Statement of Clive van Horen, , 25 November 2022,[90], SML.0004.0001.0033 at .0053.

²⁸⁰ First Witness Statement of Statement of Mark Stephen Bennett, [107], 71925.002.001.9551.

²⁸¹ First Witness Statement of Statement of Mark Stephen Bennett, [85]-[89]; [191]-[192], 71925.002.001.9551; King 1, [65b], 71925.020.001.6300; [REDACTED]

customers and “gain trust” as a “stayer” in any given geographic area.²⁸² Similarly, [REDACTED]

- 101 BEN’s own agribusiness banking offering is distributed under a dedicated brand, known as Rural Bank. Small farms or those with less complex business structures and product needs are serviced by a regionally located rural customer manager, while larger farms or those with more complex business structures are serviced by a dedicated agribusiness relationship manager or senior agribusiness relationship manager.²⁸⁴ It offers three products uniquely to its agribusiness customers: stock loans, crop loans and farm management deposits.²⁸⁵ In addition, BEN offers to its agribusiness customers niche serviceability and security features in connection with its general business banking products. These features require specific regional knowledge to appropriately calibrate, such as whether a farm is planting sustainable crops or managing water in response to its changing local climate which would justify offering more flexible serviceability or security terms.²⁸⁶
- 102 In the absence of sufficiently granular detail to allow analysis of local or regional markets, the competitive impact of the proposed acquisition on agribusiness banking markets may be assessed by reference to a Queensland-wide market as a proxy for local or regional markets within the state.²⁸⁷ BEN otherwise adopts the ACCC’s submissions in relation to the relevant markets, including the small-medium enterprise market.

20 November 2023

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²⁸² First Witness Statement of Mark Stephen Bennett, 1 December 2022, [191(b)], 71925.002.001.9551.

²⁸⁴ Bendigo and Adelaide Bank Limited, Responses to Section 155(1)(a) and (b) Notice issued on 11 January 2023, 71925.018.001.0003 at p 8.

²⁸⁵ 71925.040.001.0420 at p 2.

²⁸⁶ 71925.040.001.0420 at p 1.

²⁸⁷ Starks 1, [6.31], [6.41], [6.38]-[6.41], 71925.040.001.0171 at .0231, .0232-.0233; Starks 2, [5.12]-[5.15], 71925.043.001.0464 at .0485-.0486.