



Westpac New Zealand Limited

Submission to the New Zealand Productivity  
Commission on its report "*Boosting  
Productivity in the Services Sector: 2nd  
Interim Report – Competition and ICT topics*"

14 March 2014

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## 1. INTRODUCTION

1.1 This submission to the New Zealand Productivity Commission ("Commission") is made on behalf of Westpac New Zealand Limited ("Westpac") in respect of the Commission's report *"Boosting productivity in the services sector: 2nd Interim Report – Competition and ICT topics"*.

1.2 Westpac's contact for this submission is:

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## 2. SUBMISSIONS

2.1 Westpac makes the following submissions on the Commission's report.

### ***Competition***

**R3.3 Reliable comparative information about third-tier lenders should be available to help consumers make informed decisions. If the Consumer Credit and Financial Services Law Reform Bill is passed, the information that the Bill mandates should be compiled in a user-friendly online format. Several privately-operated websites seem will equipped to do this.**

2.2 The Commission observes in its report that New Zealanders can visit a number of online websites to compare lending rates among banks, building societies and credit unions. It is agreed that consumers would benefit from access to similar comparative information about third-tier lenders. However, it is not evident from the Commission's recommendation how the goal that privately-operated websites should extend their coverage to third tier lenders would be achieved.

**Q3.1 Is there a need for specific guidelines or an accreditation system for comparison websites in New Zealand? If so, what approach would be most effective and who would be best positioned to manage and run it?**

2.3 The Commission does not identify any significant problems with comparison websites in New Zealand and it is not evident why the proposal to accredit comparison websites is necessary. There does not appear to be any particular problem with comparison websites in the financial services sector in New Zealand. Indeed, they are very useful tool for consumers.

2.4 While acknowledging that some effort is required to do so, the information on comparison websites is easily verifiable. Consumers can check the information

provided by comparison websites on a financial services provider's own website. Newspapers also publish comparisons of banking products. The easy availability of alternative sources of information in the financial services sector means comparison websites have an incentive to ensure they provide accurate, reliable information.

- 2.5 As the Commission states, comparison websites are covered by the Fair Trading Act 1986 ("FTA") and in the case of financial services by the fair dealing provisions in the Financial Markets Conduct Act 2013. Those Acts prohibit misleading representations and conduct. The existing law provides sufficient protection for consumers and it is not evident that further regulation of comparison websites would improve consumer protection.

**R3.5 The Commerce Commission should monitor and compile data on standard form contracts with terms that unfairly restrict a business's right to end a contract (and so present a barrier to switching).**

**Unfair contract terms provisions introduced in the Fair Trading Act should be reviewed within two years of coming into effect, with a particular focus on whether there is a case for these provisions to apply to business-to-business contracts.**

- 2.6 The Commission highlights the potential for contract termination charges to act as a barrier to switching and, therefore, to reduce competition. Such charges can, however, perform a legitimate economic function. For example, term deposits provide funding certainty to a bank. Where a bank charges an early withdrawal fee, generally it will be seeking to recover its administrative costs and the costs of alternative funding.
- 2.7 The Commission suggests that one approach to address contract termination charges is to consider whether they represent an unfair contract term. The Commission goes on to recommend that the unfair contract terms provisions in the FTA should be reviewed within two years of their coming into force. This is a very short timeframe to review the effectiveness of new legislation. It will take time for the Commerce Commission to educate businesses and consumers about the new unfair contract terms regime and to bring the first enforcement actions. More time should be allowed for the new regime to be embedded before any review takes place.

**R3.6 Payments NZ should improve the transparency of the bank switching process by publishing a summary of the rules on their website. Publishing a fact sheet that gives information about the bank switching process and sets out the timeframes involved would be useful.**

- 2.8 It is agreed that Payments NZ should publish information on the bank switching process on its website. However, the Commission should note that information about the bank switching process is already available on the Payments NZ website: <http://www.paymentsnz.co.nz/news-and-events-full/switching-banks-is-easy>. It is not clear from the Commission's report whether it is aware of the information that is already available on the site. Banks also have relevant



"switching in" information on their websites and in branches to help ease the process for new customers.

**R3.7 Payments NZ should collect and publish statistics that show the number of current account switches each year and how long the switching process takes.**

- 2.9 The proposal that Payments NZ should collect and publish statistics is not supported. Under current industry standards and protocols the major banks have agreed to complete the switching process within five business days. Generally this timeframe is observed but inevitably there are fluctuations due to complexity, seasonality and resource issues that occur from time to time.
- 2.10 If Payments NZ were to publish statistics, the existing industry standards would need to be made more granular in terms of categorising the type of switches, how long different types of switches should take and defining when the switching process is complete. Otherwise, the statistics would not be meaningful. For example, the industry standards do not currently distinguish between simple cases and more complex cases, particularly business switches. There is a risk that amending the industry standards to reflect this granularity would make the standards, and the switching process, more complex. Furthermore, statistics about the speed of the process are not a complete measure of quality.

### **ICT**

**Q6.8 What institutions or incentives might best encourage firms to document and credibly share, in a timely way, their learning's about the success and failure of ICT projects? Can you point to initiatives that have been successful elsewhere?**

- 2.11 The Commission's report does not refer to the role of professional bodies. The Commission should engage with professional ICT bodies (for example, The Testing Professionals network) for their input and experience. There are also professional Business Analyst and Project Managers groups which have useful expertise.

**Q6.10 Is the requirement that a member's interest in a KiwiSaver Fund must, on request by the member that it be transferred to another fund, be so transferred within a maximum of 35 days, constraining KiwiSaver Fund managers in their investment choices and in particular from investing in private equity and venture capital? If so, how material is that constraint, in the short term and the longer term?**

- 2.12 No. The transfer timeframe is not a key issue. Other factors act as a deterrent to managers focussing on these asset types. Investments in private equity funds are illiquid and constrain the investment manager's ability to rebalance the portfolio. Furthermore, the high fee loads associated with private equity funds and the added complexity are inconsistent with the low-cost, simple construct of KiwiSaver.

**Q8.1 What adjustments to New Zealand's policies and procedures for temporary work visas and skilled migrants would speed up and reduce the costs of filling IT positions from overseas?**

- 2.13 The Commission states that New Zealand's immigration policy appears to be working reasonably well in making it easy for skilled migrant IT workers to fill IT vacancies. This is generally true. However, processing times for visa applications are not consistent. There are times when visa processing appears to be significantly delayed or even halted and during such times even urgent requests are not processed. More consistent timeframes for processing visas would be welcomed.

***Chapter 4 – Improving Competition Law***

- 2.14 Chapter 4 of the Commission's report examines some areas of competition law that the Commission believes have the potential to be improved including s36 of the Commerce Act 1986 (unilateral conduct of dominant firms) and the power to conduct market studies. The Commission recommends that the Government should consider reform of s36, in particular the prohibition should be changed to an "*effects based*" test, and suggests that there is good cause for greater use of market studies in New Zealand.
- 2.15 Any proposals regarding improving competition law should be subject to more widespread and detailed consultation before any specific recommendations for reform are made. Such consultation should take the form of a dedicated consultation on potential reform of the Commerce Act which would allow for views from a range of affected stakeholders to be taken into account. The concern is that the Commission's inquiry, with its more general focus on boosting productivity, may not receive sufficient evidence to support specific recommendations on reform of competition law.