

TO:

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2021 BCCC Review
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Submission to 2021 BCCC Review

The Eros Association is Australia's industry association for adults-only retail, wholesale, media, and entertainment.

We welcome the opportunity to make a submission regarding the independent review of the Banking Code Compliance Committee (BCCC).

Eros' Response to the Code Review Terms of Reference

Our submission to the Code Review primarily drew upon the findings of Eros' 2017 report "[Financial Discrimination Against Adults-Only Businesses](#)" which documents the structural exclusion of sex-related and "adults-only" small businesses by financial service providers.

In line with these findings, our submission recommended that the Banking Code be amended to allow for a presumption in favour of providing basic financial services to lawfully operating small businesses and for greater disclosure to be provided when basic financial services are denied.

This included integrating the term 'small business' into the Code, and requiring small businesses to have access to a minimum level of service. Basic financial services should be treated by the Code as an essential utility to operating a small business.

In summary, our responses to the terms of reference for the inquiry were as follows:

A lack of detail in the Code obligating banking services to provide basic financial services to lawfully operating businesses has contributed to the structural exclusion of adults-only small businesses. Eros has many documented cases of small businesses being cut off from basic integral services with very little to no notice.

We further detailed in our submission how the Code does not adequately articulate the standards of service and behaviour currently expected by small business customers. Eros members are often subject to the denial of basic services without consistency or review.

Limited obligations for disclosure through the Code have resulted in lawful small businesses being denied services, with reasons given ranging from ‘falling outside our risk tolerance’, ‘change of appetite’, ‘don’t support the industry’, and ‘community engagement’.

Properly articulated standards of service in the Code are expected by small businesses, as the current service standards experienced by the adult industry are incongruent and contributing to industry wide discrimination.

Part of this discrimination flows from the current self-regulatory standards which allows for the exclusion of businesses for purposefully vague “risk” considerations. Due to this lack of specificity, both AFCA and the Customer Advocate have proven ineffective in resolving any disputes. This has led to damaging, industry-based discrimination.

The experience of our members underlines the need for the Code to support all lawful businesses, as in its current form it is not inclusive or accessible to our industry.

Terms of reference – 2021 review of the Banking Code Compliance Committee

The BCCC is integral in upholding the standards of practice, service, and ethics of the Code. In acknowledgement of Eros’ submission to the Code Review, and the important role of the BCCC in monitoring Banking Code compliance, Eros makes the following recommendations:

1. *Term 1a. The extent to which the BCCC achieves its purpose to monitor and drive best practice Code compliance and provides benefits to individual and small business customers (and guarantors) by monitoring banks’ compliance with the Code.*

A lack of detail in the Code relating to an obligation in providing basic financial services to lawful businesses has meant that the BCCC cannot effectively monitor banks' treatment or discriminatory practises of industry. Clarity within the Code will help the BCCC achieve its purpose of delivering these benefits to small businesses.

2. *Term 1g. The appropriateness of the current structure of the BCCC and its secretariat staff, including whether it has sufficient resources to fulfil its role and purpose.*

The inclusion of specific staff support for small business and industry who are impacted by the purposefully vague language in the Code. The Eros Association believes that this support will help to minimise the negative impacts current banking practises are having on our members.

2. *Term 1h. Whether the BCCC has adequate systems for the collection, recording and processing of data about Code compliance.*

The Eros Association recommends that the BCCC should collect data on industry-based financial service exclusion. The data collection system of the BCCC currently does not reflect these small business impacts due to the vague wording of the Code. These are important datasets that should be collected and considered by the BCCC.

Conclusion

The Eros Association thanks the BCCC for the opportunity to comment, and for the work the BCCC does in monitoring banking code best practices.

If there is any way we can assist further, or any other matters you would like to discuss, please do not hesitate to contact.



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