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INTEGRITY • TRUST • ETHICS

CUSTOMER ADVOCATE DISCUSSION PAPER

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The Banking and Finance Oath seeks to re-assert the ethical foundations of the financial services industry in a way that goes beyond regulation and compliance, by highlighting the importance of ethics, integrity, honesty and trust in the behaviour of individual industry participants.



The BFO greatly appreciates the work put into developing this paper by The Ethics Centre.

INTRODUCTION

The 2018/19 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry provided a platform for a very public examination of the sector's most egregious shortcomings. The responses from the Australian media, from the general public and a multitude of stakeholders were characterised by shock, anger and deep disillusionment.

The financial services industry is not alone: many other industries have faced customer disillusionment and collective fury. There has been a deep public lack of confidence in outcomes across healthcare, education, churches, transport, energy, and, indeed, our system of democracy. Trust and faith in our most established institutions is at an all-time low.

But financial services organisations seem to elicit an especially violent response. This may be because, as consumers, we are all so profoundly reliant on financial services (loans, insurance policies, investments, payment technologies, superannuation, credit cards etc) in order to live our lives. It may be because the sheer volume of bad news stories – and the staggering depth and variety of misconduct – seem greater than in other industries. Or it could be that we simply cannot accept levels of corporate profit and executive remuneration that appear profoundly out of step with societal norms.

Considerable evidence of poor customer outcomes and subsequent institutional responses - both in the years leading up to the Royal Commission and in its aftermath - indicate that there remains a significant lack of consensus among stakeholders in the financial services ecosystem as to the nature of the problem and the best solutions.

While the problems identified by the Financial Services Royal Commission (FSRC) are not new, many in the industry have been working to address them for some time.

The peak body for large banking groups, the Australian Banking Association (ABA), took the lead in April 2016 by introducing a suite of measures to address this state of affairs. These measures included the strong recommendation that all major banks create the function of a Customer Advocate. The ABA was explicit in defining the guiding principles, purpose, role and responsibilities of the Customer Advocate, predicting that the role would "make it easier for customers when things go wrong – establishing an independent customer advocate in each bank to ensure retail and small business customers have a voice."

While this recommendation was largely adhered to by a wide variety of ABA members, the results are not yet clear. In June 2018, in an article titled *How Effective Are Bank's Customer Advocates*, and perhaps capturing the public mood, Choice asked whether advocates were "toothless tigers or champions for fairness."

The purpose of this paper is to assess the current state of the Customer Advocate initiative, and to identify opportunities for such a function to deliver more than originally envisioned. The paper is based on conversations with a range of key stakeholders in the Australian financial services sector, including regulators, consumer advocates and financial services providers.

Given the unprecedented impact Covid-19 is having on our economy and every individual in our society, this paper is intended to reignite the conversation with those in the financial services industry who will be working with customers as they navigate through some very difficult times. This pandemic has altered the sense of what it means to be vulnerable. This is an invitation to convene and discuss this important element as further work is done to help those in need and continue to restore trust in this vital sector.

HISTORY

Consumer advocacy as a concept emerged during the first half of the 20th century in the USA in the guise of so-called consumer leagues. Such organisations – typically independent and not-for-profit - focused on providing information to consumers and advocating for consumer rights. In the second half of the 20th century organisations began proactively making representations for individual consumer's interests, usually in the context of a dispute with an organisation.

Some jurisdictions today have dedicated, government-sponsored, legally-empowered financial customer bodies embedded into their broader financial services ecosystem. Examples include the US Consumer Financial Protection Bureau and the UK Financial Services Consumer Panel.

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- + Complexity of organisations and the systems by which they operate;
- + Distance between decision-makers and the beneficiaries, such as customers;
- + Uncertainty over the capacity of individual consumers to assess and making choices about their increasingly significant and complex financial needs.
- + Expansion of choice and complexity of providers and products available to customers;
- + Organisational cultures which focus on short-termism and shareholder returns over customers and long-term returns;
- + Asymmetry in the information available to customers and organisations;
- + A lack of clarity over what customers should expect (or ought to be entitled to) from the financial services industry;
- + The proliferation of financial services initiatives (including superannuation and private health insurance) driving perverse outcomes or unintended consequences

In 2016, as part of the ABA's Banking Reform Program, the concept of the Customer Advocate was introduced as part of a suite of measures designed to restore the trust of customers in the banking system. It was deemed necessary after a spate of systemic financial services scandals that damaged many customers directly. These well-publicised scandals resulted in many more customers losing confidence in the banking system – even if they had not been directly affected.

The ABA's Guiding Principles – Customer Advocate states that the Purpose of the Customer Advocate is to be the “voice of the customer [and to] make it easier for customers when things go wrong.”

The Financial Services Royal Commission unearthed instances of misconduct not confined to the banks represented by the ABA. The ABA's 25-strong membership, whilst a fraction by number of the financial services organisations in Australia, spans of course non-banking services such as insurance, financial advice, and superannuation and, by balance sheet size and total customer numbers, significantly outweighs all other financial services organisations.



Non-members of the ABA are under no obligation to create a Customer Advocate function within their organisation, and many have not.

ABA PRINCIPLES FOR CUSTOMER ADVOCATES

The ABA's principles were designed to drive a level of consistency across the sector. The Guiding Principles, available on the ABA's website, contain seven sections and at a high level capture:

- + The need to have a clearly defined purpose for the Customer Advocate role that is tailored for the bank.
- + Ways in which roles and responsibilities can be executed in practice, including minimum expectations.
- + Ways in which the role can be operationalised so it operates separately from the business units within banks.
- + Expectations regarding communications about the role both internally and externally.
- + Monitoring the awareness and effectiveness of the Customer Advocate.

SUMMARY OF THE ABA CUSTOMER ADVOCATE PRINCIPLES

- + Enhance the complaints making process
- + Make it easier for customers when things go wrong
- + Influence systems processes and decision making
 - + Improvements
 - + Vulnerable customers
 - + Strategic influence
 - + Advocacy
- + Support timely and meaningful customer outcomes
- + Transparency
- + Timely communication
- + Information sharing
- + Building confidence of customers in the role (5.2B)
- + Fair, balanced and act with integrity

ABA'S 2016 BANKING REFORM PACKAGE

In 2018, the ABA introduced Guiding Principles to assist its members to develop their respective Customer Advocate functions. July 2019 heralded the ABA's revised Banking Code, which became mandatory and enforceable by the ABA's newly established Code Compliance Committee. Included in the Banking Code is the requirement to have a Customer Advocate. As a result, the ABA membership is leading in the right direction in providing consistency. This will help institutions to develop standards, allowing financial services workers and customers to better predict what they expect between organisations and permit regulation to be aligned.



ABA CODE OF BANKING PRACTICE GUIDING PRINCIPLES

1. TRUST AND CONFIDENCE

- + We are committed to **earning** and retaining the trust of our customers and the community.
 - + We are committed to making promises and **keeping** them to deliver good customer and community **outcomes**.
 - + We will **comply** with all laws relating to banking services.
 - + We will protect your privacy.
 - + We recognise our role in society and our impact on the wider community.
-

2. INTEGRITY

- + We will act honestly and with integrity.
 - + We will be fair and responsible in our dealings with you.
 - + We will build and sustain a culture based on strong ethical foundations.
-

3. SERVICE

- + We will deliver high customer service and standards.
 - + We will ensure banking services are accessible, inclusive and provided to you in a fair and ethical manner.
 - + We will raise awareness of the basic (low, or no fee) banking products that we may offer.
 - + We will take a responsible approach to lending.
 - + We will work to help you if you are experiencing financial difficulty.
-

4. TRANSPARENCY AND ACCOUNTABILITY

- + We will **communicate** with you in a clear and timely manner.
- + We will be **accountable** in our dealings with you.
- + We will be **transparent** in our communications with you.



ON FAIRNESS

Fairness has been invoked frequently during and in the wake of the FSRC. Attempts at defining this word precisely – in the context of the financial services industry - are underway, with ASIC in particular taking a lead in providing clear guidance on its use and application. Others, especially industry peak bodies, are working on this too, albeit at a more practical, operational level.

All of this is taking place in the context of a cultural legacy that fails to reconcile conventional profit-seeking and bonus-achieving mentalities with a customer fairness agenda. For many, the challenge is seen as a ‘trade-off’ between profitability and treating customers fairly.

Questions of fairness usually arise upon receipt of a customer complaint. But if the issue is only raised after the fact, and therefore too late in terms of financial and non-financial consequences, this is clearly sub-optimal. Organisations that pre-empt issues in relation to fairness are likely to reduce the incidence of complaints. This turns in large part on what the definitional scope of Fairness ought to be. The issues identified above summarise these complex, seemingly competing issues that the customer advocate cannot solve but must acknowledge.

DELOITTE REPORT

Last year, two years from inception, the ABA commissioned Deloitte to conduct a post-implementation review of ABA Customer Advocate trends and performance.

Deloitte identified three key success factors as *“having the greatest influence on the effectiveness of Customer Advocates and their implementation”*.

- + **Visible senior engagement and support** – the CEO and Board have high visibility of, and clear support for, the role. Some Customer Advocates cited weekly, or even daily, conversations with senior leaders such as the CEO or Chairman.
- + **The skills and experience of the Customer Advocate** – the Customer Advocate is senior with strong influencing skills and conviction, and good judgement. They also have the courage and sometimes resilience to challenge the organisation’s existing systems, processes, and mindsets, and recognise that the fairest outcome may not always deliver what the customer wants.
- + **Appropriate resourcing** – there are the right resources (both in numbers and skills) to fulfil the Customer Advocate’s mandate, and flexibility in resourcing during periods of increases in workload, such as higher complaint volumes and complexity.

Further factors identified by Deloitte included

- + **Broad mandate or influence** – the role has a broader mandate, which can include prevention of conduct issues, and influencing the organisation’s products, services and processes to focus on delivering fair outcomes for customers.
- + **Strong collaboration** – if the role has a narrower mandate, such as focusing mainly on customer complaint resolution, the Customer Advocate gains broader influence and impact through strong collaboration with other functions or related roles inside the organisation that have prevention, systemic issues or complaints management and data analysis responsibilities, with a focus on customer outcomes.
- + **Internal awareness** – there is strong internal awareness of the Customer Advocate, which can be enhanced through internal communications programs about complaints and customer issues across the broader staff base, and the Customer Advocate influences the thinking of senior leaders.



OPERATIONALISING THE CA ROLE

Customer Advocates perform a dual role under the ABA model, acting both as the voice of the customer and assisting or advocating for customers when things go wrong. However, views are mixed across stakeholders, including ABA members, as to the level of emphasis.

A significant number of stakeholders hold the view that the Customer Advocate should perform a “supra” role, encompassing all customer-relevant matters to act as an clearinghouse of customer complaints, evolving preferences, specific customer segment needs, and opportunities for “win-win” improvements. However, for a minority of financial services providers this already involves influencing financial product design and service delivery standards.

Reporting lines of Customer Advocates have evolved, with some organisations shifting them from a Risk and Compliance silo to a direct report of the Chief Executive Officer. It is also unclear what practical influence Customer Advocates are permitted in the day-to-day decision-making of individual business lines.

In the short time the role has been established, selection and retention of Customer Advocates has been variegated, too, with some organisations experiencing high turnover of the lead Customer Advocate and their direct reports. Feedback suggests that in some organisations this has been due to frustration with a lack of internal support for the role to deliver on the expectations placed upon it.

There is also concern in some quarters that the function is under-resourced and under-empowered within their organisations.

PROMISES + OUTCOMES

WHAT IS A CUSTOMER ADVOCATE MEANT TO ACHIEVE?

Ultimately, the Customer Advocate is there to advocate for the interests of customers. There are some signs that this is happening among the larger banking groups, including the use of artificial intelligence and machine learning. This Regtech response is to be applauded because it reflects seriousness towards tackling some of the problems caused by the tyranny of large-scale financial services conglomerates.

We also note that whilst struggling in practice, there should be encouragement of the aspiration set for Customer Advocates to embed thinking about the customer, and the impact on the customer at all levels and in all activities within their organisations. Drilling down into this means that the customer advocate has a number of roles:

- + Customer complaints and issues being dealt with in a timely and considerate manner
- + Products and services are designed for the benefit of the customer in a they will assist the customer achieve their financial goals, and are fit for purpose
- + Special considerations for vulnerable customers



HOW EFFECTIVE HAVE THEY BEEN TO-DATE?

Stakeholder feedback highlights the following themes:

- + **Independence** – despite some initial concern regarding the lack of perceived independence of Customer Advocates (stemming from the fact that they are paid for, designed by and report to the financial services organisation), it does not seem to have undermined their effectiveness. Indeed, in many organisations the customer advocate has clear authority to overrule the organisation and its internal dispute resolution process, and evidence suggests that they exercise this power
- + **Resourcing** – this is an area of concern, with stakeholders reporting very different levels of non-financial resourcing. For example, their visibility and understanding throughout organisations is reported as being highly variable. Often, customers and others do not know there is a Customer Advocate unless they are dissatisfied with dispute resolution outcome.
- + **Intelligence** – although it seems to be contemplated by a number of organisations in their high-level publications, there seems little evidence of a number of practical opportunities to enrich the customer advocate, and through it, act as a conduit to the rest of the organisations with valuable, actionable insights.

HAVE EXPECTATIONS BEEN MET?

Beyond the large diversified banking groups, many smaller financial services entities have failed to implement the Customer Advocate function. They have faced less scrutiny than the major banking groups - perhaps because for the most part they were not as shamed about their cultural flaws or operational shortcomings – and have been subjected to less regulation or demands for self-regulation.

The mutually-owned sector, for example, has long had market-leading customer satisfaction performance outcomes. At least in theory, this is the result of culture that is more aligned to their communities and therefore customers. Such organisations are said to have modest profit-seeking motives and much greater product, system and organisational simplicity.

Because the largest Australian banking groups also comprise insurance, superannuation, and wealth businesses, some have elected to include the Customer Advocate in scope across all business lines. There remains much to be done among standalone (or “regional”) banks, insurers, financial advice, and superannuation organisations.

PERFORMANCE AND ENFORCEMENT REGIME

Neither market forces nor hard, regulatory regimes seem to be capable of achieving their stated goals of protecting customer interests. Societal expectations about what customers ought to be entitled to by way of product and service outcomes are not consistent within stakeholder groups, acutely less so at the ecosystem level. This makes even black-letter regulation difficult to operationalise; and principles-based regulation has also not had a good track-record in terms of delivering certainty to organisations let alone customers.

KEY CHALLENGES TO EFFECTIVENESS

Despite the advent of a new business orthodoxy that seeks to place the needs of the customer, and the customer experience, at the centre of all business decisions, all evidence points to this not being the case in the financial services industry. The marketing messages may have become more “customer-centric,” but not necessarily the practice.

Consumer advocacy groups report that processes and products still seem designed to be about everything except the customer - especially functions such as risk management, internal counsel, compliance, and human resource functions. Such functions may not be “customer facing,” but they can still have a significant bearing on them.

WEAVING THE CUSTOMER ADVOCATE’S PRESENCE THROUGHOUT THE FABRIC OF THE ORGANISATION

“You need a thousand small changes to achieve one big one. You can compare it to a big, heavy lead ball. If there are just a few of you it is impossible to get it rolling, but it can be done if everyone pushes together.”

AFM, Dutch regulator

For the role of Customer Advocate to be truly effective, it must have influence over conduct risk management frameworks as well as organisational systems, policies and procedures. For example:

- + Overseeing and supporting remediation – in relation to on-going triage of an individual complaint as well as systemic problems
- + Resourcing – proportionate to the objectives set for it, ensuring the function has adequate financial resources; enough visibility and authority; and, the right to get additional advice or assistance where necessary.
- + The role needs to encompass the interests of small businesses to address the over-industrialisation of loans to this segment and the accompanying, perennial complaints from it in relation to accessing and keeping lines of credit
- + Independence: separate from the organisation’s business units and granted – through formal and practical senior management support – the moral authority to discharge its responsibilities
- + Transparency and measurement – regarding its performance, it is meaningfully measured; reported in actionable ways; and, held accountable for its outcomes.



Self-evidently, given its infancy, the Customer Advocate is still evolving as a concept. By extension, some organisations are also 'finding their feet' when it comes to working out how they ought to deliver on these conceptual promises in practice. There may be general agreement about what the Customer Advocate ought to do, and what specifically the ABA determined it shall do. These imply a set of Promises, which include:

- + Relevantly, comprehensively and accurately capturing the "voice" of the customer
- + Proficiently interpreting and then meaningfully articulating this voice throughout the organisation in which it operates
- + Constructively determining how and to what extent they and their broader organisation are performing against industry standards and regulatory requirements
- + Ensuring that they are resourced appropriately to be able to influence in practice the organisations

RESOURCES

Financial and non-financial resources seem to be lacking in relation to the non-complaints handling role that has also been envisioned for the customer advocate.

Unless the customer advocate is capable of influencing product design and service delivery methods – aimed at promoting superior customer outcomes – the opportunity will be missed to improve the customer experience, regardless of whether that manifests itself in an actual complaint. By non-financial resources we refer to the degree to which an organisation's leadership ensures the customer advocate's Purpose is an enterprise-wide one. This means an organisation must publicise, explain, embed, fund, and follow-up on performance.

TOWARDS AN ETHICAL FRAMEWORK

Given the myriad complex, well-documented practical challenges confronting the customer advocate, the lack of ethical framework design principles renders its mission significantly tougher. The well-intentioned Purpose of the customer advocate risks floundering either in the short- or medium-term. Navigating these complex waters means ethical framework design principles ought to be exploited. Stakeholders are invited to reflect upon this paper with a view to The Ethics Centre creating the opportunity to work through its recommendations.

The customer advocate role – or more generically-speaking the objects to which it rightly aspires – needs to operate within a formally-articulated ethical framework. Without one, those objects will struggle to be developed into an effective solution. The Ethics Centre defines an ethical framework as comprising three foundational elements:

1. **PURPOSE:** demands that an organisation determines *WHY* it exists. This animates and thereby guides what its Values and Principles ought to be.
2. **VALUES:** They are the *WHAT*, the things we strive toward, desire and seek to protect.
3. **PRINCIPLES:** They provide the *HOW* and shape our conduct and the choices we make.



VALUES

In ethics, values refer to the ends toward which our choices may be oriented. They define what is good about whatever we're doing. Our values act like a compass, they guide our organisations in important decisions from product development, business and customer interactions all the way through to hiring.

We do not propose to suggest universal values that the Customer Advocate should promote. The values that should direct the work of Customer Advocates should be considered and articulated by each organisation, according to the nature of the products and services they provide, and the purpose of their organisation. Relevant values might include:

- + Transparency in all dealings
- + Care of vulnerable people
- + Respect for all persons
- + Honesty in the way services are promoted and described

PRINCIPLES

In ethics, principles help determine right from wrong. Principles are general guides to action. Unlike rules, they tend not to be overly prescriptive. Some of the principles that organisations might consider capable of helping customer advocates achieve their values are:

- + **Ought before can** – that it can be 'done' does not mean that it should be done
- + **Empathy** – treat customers as if they were a friend or family member
- + **Accessibility** – inclusive of all customers you choose to offer products and services to; internally, harnessing staff diversity
- + **Accountability** – everyone is responsible for considering the customer – as it applies to their role – and must be able to acquit for their actions
- + **Courage** – be willing and able to speak truth to power within organisations to influence change in systems and culture – backed-up ideally with 'reward' for being fearless
- + **Fairness** – treat like cases in a like manner; manage apprehended biases



NATURE AND SCOPE OF ROLE

Some stakeholders consider that it may be appropriate for the Customer Advocate to be a statutory role. Other roles which require a degree of independence, and which also carry professional duties which may conflict with the interests of the organisation include superannuation Trustees, Appointed Auditor and Appointed Actuary.

Importantly, it is vital that the role of the Customer Advocate does not attract controls or regulations that risk the function becoming an adjunct to internal and customer-facing business units. There are already enough controls and sanctions available at the organisation and senior-management level. This is where the locus of control and consequences should remain.

For several reasons, we do not consider making the establishment of a customer advocate a threshold matter. The Purpose for the customer advocate is not at all unreasonable or unhelpful but this paper focuses on ethical frameworks and design principles so that Values and Principles can set up such a function for success.



RECOMMENDATIONS

In order for the role of Customer Advocate to play a meaningful role in the restoration of trust in the Australian banking system, a holistic solution is required. Little can be achieved without each part of the organisation and system co-designing, co-operating, and co-owning outcomes. Specifically,

- + **Society-wide** – to influence and drive consistency among all areas of civic society, thereby learn about the challenges and solutions that customer advocates addresses are very similar to other sectors. This means cross-fertilising ideas and sharing trends and issues as well as leveraging the scale and methodologies of industry associations.
- + **Organisation** – not just having regard to customers but also those that have a bearing on customer outcomes (i.e., those that are not customer facing, in areas such as credit risk management, human resources and training, and external stakeholders so that they understand the potential consequences of certain measures on their customers).
- + **Simpler customer experience** – many not just ‘vulnerable’ customers report that navigating financial services products is very difficult, directly creating practical and emotional pain points for customers at each point in the experience: pre-sale expectations; ‘frictionless’ origination and on-boarding; and, product performance.

The Customer Advocate can assist greatly in each area by acting as a conduit between customers, organisations and regulators in developing more meaningful descriptions of risks and returns; specific pain points to prioritise improvements; and, with behavioural economics, better understand how a diverse customer base gives rise to diverse expectations.

STANDARDS ALIGNMENT AND RECONCILIATION

Holistic thinking and in turn standards across the financial services ecosystem will promote simplicity and portability so that all stakeholders have a more predictable, swift comprehension of their respective rights and responsibilities. This points towards aligning all financial services industry-level Codes and considering how to introduce comparative performance indicators or a balance scorecard-like approach to motivate organisations and raise awareness and in turn empowerment among customers.

Consistent, portable and predictable standards should also reduce knowledge and expectation gaps, increase efficiency for organisations, and ultimately lead to heightened productivity. It will also tend to reduce the non-financial costs to individuals that face barriers, confusion and harm arising from the current assortment of definitions and choices.



STRONGER EMPHASIS TO BE PRO-ACTIVE AND PRE-EMPTIVE

Notwithstanding the already significant workload facing the Customer Advocate, there are opportunities to avoid new types of poor customer outcomes, and even stand out among the competition by grasping new and emerging threats and opportunities in the financial services product and service landscape. For example,

- + Identify and collaborate internally on trends (e.g. robo-advice; Fintech and BigTech' (e.g. Alipay, Afterpay, Libre); lending-related expense definitions and calculations ('HEM').
- + Non-bank disruptors' business models; advent of 'Big Tech' in financial services landscape; and, in test phase for industry.
- + Invest not just in the direct customer impacts of new technologies but also the very high indirect risks. For example, artificial intelligence and machine learning are set to transform the financial services industry.

RESOURCES

We conclude by returning to a familiar theme. If the Customer Advocate is to meet its objectives and be truly effective in driving better outcomes for all customers, it will require requisite financial resources. It will also require subtle yet significant non-financial resources such as cultural and leadership commitment to the importance of the role's core purpose.

This extends beyond organisations and regulators to the consumer itself, chiefly in the form of financial counselling services. Despite being a proxy for customers, this stakeholder group has been woefully under-resourced relative to the financial and political resources of other stakeholders. The Government is poised to set out its plans stemming from the FSRC recommendation to remedy financial counselling underfunding.