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No handshake, no prisoners: The fallout from the banking royal commission

TND The New Daily @TheNewDailyAU

Banking royal commission chief Kenneth Hayne was responsible for one of the photo highlights of 2019, refusing to shaking Treasurer Josh Frydenberg's hand when he handed over his damning final report into the financial industry.

"A handshake or something…?" implored a photographer, looming over the pair. But all he got from Commissioner Hayne was a curt 'no' – while Mr Frydenberged chuckled awkwardly.

That February moment came after Commissioner Hayne led a year-long inquiry that found that Australia's big banks and financial institutions had broken the law and put profits before people.

"Saying sorry and promising not to do it again" would not prevent history from being repeated, the commissioner warned in his report.

He made 24 referrals for misconduct involving potential civil and criminal penalties for big names, including the Commonwealth Bank, NAB, AMP and ANZ.

Only Westpac escaped Commissioner Hayne's calls for referrals over the breaches – and that lucky break came to an abrupt end in November with revelations that Westpac was being sued by Australia's financial intelligence watchdog for **more than 23 million alleged breaches of money laundering and counter-terror laws**.

But back to February 2019, and Commissioner Hayne's report. The Morrison government immediately vowed to "take action" on all of his 76 recommendations, including confirming the establishment of a new compensation scheme of last resort to award compensation.

"As we have heard, too often the conduct within our financial institutions has been in breach of existing laws and fallen well below community expectations," Treasurer Josh Frydenberg said.

"The price paid by our community has been immense and goes well beyond just the financial. Businesses have been broken, and the emotional stress and personal pain has broken lives.

"As Commissioner Hayne has made clear: There can be no doubt the primary responsibility for misconduct in the financial services industry lies with the entities concerned and those who managed and controlled those entities."

The government said it would:

- Require mortgage brokers to act in the best interests of borrowers by law;
- Remove conflicts of interest between brokers and lenders by banning trailing commissions from July 1, 2020;
- Review the changes after three years on the implications of removing up-front commissions and moving to a borrower-pays system for mortgage advice;
- Ensure super funds had only one default account for new members entering the system;
- Protect vulnerable consumers against unsolicited selling for super and insurance products;
- Bank the deduction of any advice fees from MySuper accounts;
- Establish a comprehensive national scheme for farm debt mediation;
- Support the elimination of default interest loans in areas affected by natural disasters.

Mr Frydenberg confirmed that the government would act to expand the jurisdiction of the Federal Court to cover corporate criminal misconduct to expedite the consideration of cases brought by regulators.

But the Australian Council of Trade Unions said it was shocked the commissioner's report made "no direct referral of criminal victims of Australia's banks."

Industry Super Australia welcomed the report's recommendations, but deputy chief executive Matt Linden acknowledged that "the community probably rightly expected there'd be a stronger response" to the illegal activity uncovered by the commission.

"Given the scale and nature of the misconduct, which is exposed very clearly in this final report, I think that [recommending criminal prosecution] would have been a reasonable thing to do," he said.

Former opposition financial services spokesman Bernie Ripoll, who chaired 2009's parliamentary joint committee inquiry into financial products and services, told *The New Daily* the royal commission had been worthwhile.

"I absolutely welcome the report. It's extensive and I think it hits the mark, and it looks like a report completely without fear," he said.

"We'll get a positive outcome from this, where consumers can feel confident and we can restore some trust in our superannuation system, in our insurance system, in the way that people borrow money and the way they deal with their bank."

Australian Banking Association chief executive Anna Bligh welcomed the report's recommendations, describing them as "an opportunity for banks to reset their relationship with customers".

"This report is a roadmap for the industry to drive the change needed to earn back the trust of the Australian people," she said.

"The industry understands that many people are cynical about whether banks will really change, but don't judge us by our words, judge us by our actions."

Commissioner Hayne's final report was scathing about the big banks, and other financial institutions.

What happened next

That was far more than the $10 billion or so in misconduct that Commissioner Hayne had unearthed and ordered to be made good.

Report author Professor Carsten Murawski said his research was based on a survey of 1029 people supported by focus groups and extrapolated across the community.

"What we didn't have was an idea of the prevalence of those issues, the severity, across the population," Professor Murawski said.

But he said the results of misconduct by the banks might have cost the community even more.

"Inefficiencies arising from suboptimal allocation of capital and risk might be even more substantial," it read.

That means that the economy has suffered even further because the lost money was not put to productive use.

The estimated cost of the financial sector rorts identified by the report was on average $20,473 per person.

After the revelations, Mr Frydenberg said he planned to put his foot down and implement 20 of a total of 54 royal commission recommendations committed to by the government by the end of 2019.

Among the measures Mr Frydenberg committed to fast-tracking were te ending grandfathered commissions for financial advisers, and forcing mortgage brokers to act in the best interests of their clients.

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