

TO: Banking Code Compliance Committee via info@codecompliance.org.au

13 February 2023

Banking Code Compliance Committee Priorities 2023-24

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

We welcome the opportunity to make a submission in response to the consultation paper on the Committee's Banking Code compliance priorities 2023-24.

Inclusivity, accessibility and vulnerability

We recommend that the Committee continue to prioritise follow up inquiries and publish reports on banks' actions to improve compliance with Part 4 of the Code on inclusivity, accessibility and vulnerability. In its inquiry report into Part 4 of the Code, the Committee noted reports that sex workers and sex industry businesses are excluded from access to basic banking and financial services and the discriminatory effects of this exclusion. The Committee held that banks' risk policies should "be based on the individual customer's merits and not on their industry or occupation generally."¹

De-banking

We also recommend that the Committee undertake an inquiry into the emerging issue of banks denying or withdrawing banking services, to assess whether decisions are based on an informed assessment of the circumstances of the customer. This was a recommendation of the recent Independent Review of the Banking Code of Practice.² As such, we are disappointed that the Committee has not adopted or responded to this recommendation.

This is in line with a recent statement from AUSTRAC that banks should adopt a case-by-case approach to managing risks.³ It would also accord with the Council of

¹ Banking Code Compliance Committee, *BCCC Inquiry Report: Banks' Compliance with Part 4 of the Banking Code: Inclusivity, Accessibility, Vulnerability* (December 2021) 21.

² Mike Callaghan, *Independent Review of the Banking Code of Practice* (November 2021) 102.

³ AUSTRAC, 'AUSTRAC statement 2021: De-banking' (29 October 2021).

Financial Regulators' recommendation of data collection on de-banking by the Big 4 banks.⁴

In a 2022 survey of Eros members (see Appendix), three quarters of respondents reported experiencing financial discrimination because of their industry, and half reported being discriminated against by their banking institution. Four in ten reported discrimination from one of the Big 4 banks, with some members reporting discrimination from multiple Big 4 banks. Of the respondents who experienced discrimination, more than half disputed the decision and only one of these was positively resolved. Determinations from the Australian Financial Complaints Authority have been of no assistance in tackling financial discrimination against our industry.⁵ More than a third have been forced to change financial service providers due to discrimination. Three quarters of respondents did not believe there had been an improvement in treatment of the adult industry in the last five years - the time of our last survey of members. A copy of our 2017 report, *Financial Discrimination Against Adults-Only Businesses*, is attached.

Small business

We believe that it is important the Committee continue to prioritise engaging with small business stakeholders, including regular meetings with the Committee's Small Business and Agribusiness Advisory Panel, and also through adding other useful perspectives from amongst the diversity of the sector to the Panel and through adding a member with expertise in small business to the Committee.

As such, we recommend that the Committee expedite its planned inquiry into small business and agribusiness issues that is scheduled to be completed by June 2023.

Conclusion

The Eros Association welcomes the opportunity to assist in shaping the Committee's Banking Code compliance priorities 2023-24

If there is any way we can assist further in this, please don't hesitate to contact us.



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⁴ Council of Financial Regulators, *Potential Policy Responses to De-banking in Australia* (August 2022) 3.

⁵ See, e.g., Australian Financial Complaints Authority, *Determination 687972* (12 May 2020).

Appendix: Eros Member Survey - Industry Discrimination Key Stats

- 3 quarters of respondents (30/40) have reported experiencing financial discrimination because of their industry
- Half of respondents (20/40) reported being discriminated against by their banking institution
- More than a third of respondents (14/40) have experienced discrimination from their payment gateway provider
- Almost half (16/40) reported experiencing discrimination from one of the Big 4 banks, with some members experiencing discrimination from multiple Big 4 banks
- Of the respondents who experienced discrimination more than half disputed the decision (17/30) and only one of these was positively resolved
- More than a third (15/40) of members have been forced to change providers due to discrimination
- Three quarters of respondents do not believe there has been an improvement in treatment of the adult industry in the last 5 years
- A quarter of responders of experienced discrimination purely for being employed in the adult industry, including rental leases, home loans, insurance, and a personal bank account