7. The Hayne Royal Commission and Banking

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7.1 Introduction

The Royal Commission into "Misconduct in the Banking, Superannuation and Financial Services Industry" under Justice Kenneth Hayne (hereafter referred to as the Hayne RC or RC) was a damning indictment of bad behaviour in the finance sector – with the banking sector a prime offender. It was established in December 2017 and provided its Final Report in February 2019 after almost a year of hearings. It made 76 recommendations including: 17 regarding banking, 10 regarding financial advice, 9 regarding superannuation, 15 regarding insurance, 7 regarding culture, governance and remuneration, and 14

regarding regulators. The government accepted and agreed to act on most of the recommendations – with a few significant exceptions. In December 2020 legislation was passed enacting around twenty of the recommendations.

The following sections cover: the background to the establishment and method of the RC; the main findings of misconduct by RC; the RC's assessment of the causes of misconduct; the recommendations of the RC and their implementation; an assessment of the likely lasting effects on banking in Australia.

7.2 Background to the Royal Commission

For several years, various politicians and commentators, reacting to reports about mistreatment of financial consumers by advisers, banks and insurers, had been calling for a Royal Commission. Some (myself included) doubted the need for a RC, arguing that misconduct could be investigated and prosecuted by ASIC. (In hindsight, the RC identified many issues that had not received proper public attention and where the regulator had not been sufficiently able to or active in pursuing and prosecuting wrongdoing). The federal government and the financial sector had been opposed, but ultimately the government's hand was forced when the major banks, hoping to call a halt to a plethora of other inquiries advocated the creation of the RC.

The terms of reference, and short time allowed, for the RC limited what it could investigate. It was only charged with investigating the period since the GFC (2007 onwards) which meant that many dubious financial sector activities in the years prior to that time were not examined. ADIs, Financial Advice firms and Insurers and intermediaries between borrowers and lenders were clearly targets for the RC given prior exposures of misconduct – and the government also included superannuation in, what appeared to be a political move reflecting its antipathy to unions, hoping to find problems with the industry super funds. The misconduct to be investigated included not just breaches of law and regulations but also behaviour falling below community standards and expectations (but without providing guidance on what such standards and expectations might be).

The process of the RC involved:

- Commissioning of thirty background papers providing valuable information on the financial sector
- collection of internal (otherwise confidential) documents and submissions from financial firms
- receipt of (over ten thousand) submissions from the public about financial firm misconduct
- hearings in which case studies of such misconduct were presented

- hearings in which financial firm representatives and regulators were subject to detailed examination by the legal counsel assisting the Commissioner
- production of interim and final reports, with the latter including recommendations to the government
- confidential remittal to public prosecutors of cases identified where prosecution is warranted

It is worth noting that, prior to the announcement of the RC, APRA had in August 2017 initiated a prudential inquiry into governance, culture and accountability at CBA in response to a number of matters which had damaged the bank's reputation. These included poor financial advice, unfair denial of insurance claims, miss-selling of financial products and allegations of major failings in its compliance with ALM/CTF requirements. (In December 2017 CBA admitted ALM/CTF compliance failings, ultimately leading to a major fine). While ALM/CTF was not a subject of the RC, the other issues were on its agenda. The APRA inquiry (which led to it requiring self-reviews by other major banks) focused attention on governance, culture, and risk management failings in large financial institutions, which the RC ultimately determined as factors relevant to explaining the pervasiveness of misconduct.

Essentially, the RC had three main tasks. First it was to investigate the extent of misconduct and misbehaviour. In doing that its hearings focused on the areas of Consumer Lending; Financial Advice; Lending to SMEs; Financial Services provided to Regional and Remote Communities; Superannuation; Insurance; and Causes of Misconduct and Regulatory Considerations. Second, it was to try and find explanations and causes for misbehaviour and misconduct. Third, based on those findings, it was charged with making recommendations which, if implemented, would prevent repetition of such behaviour.

7.3 Types of Misconduct

As noted above, the Hayne RC had to examine not just breaches of law and regulations, but also conduct falling short of community standards and expectations. That can be best interpreted as conduct which people would generally regard as not fair. At one level that could involve institutions exploiting a power imbalance to capture a disproportionate share of the "gains from trade" where consumers might still benefit from the interaction with the institution, but not as much as might be thought appropriate or available elsewhere. More serious are cases that involve institutions making profits at the expense of financial consumers (ie making them worse off) by (for example): selling them unsuitable products; charging fees which were not warranted; not meeting expected obligations associated with products and services sold; providing poor or inadequate information and advice leading to poor consumer outcomes. Some of these activities were clear violations of law or regulations, but many fell into that "grey" area,

common with principles-based regulation, where the intent of the law was breached, but not in a way that a clear violation could be proven. And a common response was that such breaches were not intentional but reflected undetected flaws in operating systems and procedures. All of those activities and more were found to have occurred in abundance and are briefly outlined below!

Before considering those areas though, it is worth noting a particular feature of financial products and services which are being provided to customers who (commonly through no fault of their own) do not have the information or ability to fully assess the value and risks involved, and are dealing with "expert", knowledgeable providers. Those providers may have incentives to overcharge for the quality of the product (including delivering an inferior quality), or recommend a supply of the product different to what the customer needs. This information asymmetry is a feature of what are referred to as *credence goods*, where the purchaser may not even be able to assess the quality after the purchase. (Medical treatment and car repairs are oft-cited examples). Balafoutas and Kerschbamer (JBEF, 2020) provide a recent survey noting "evidence from the field suggesting that expert sellers exploit their informational advantage in order to increase their profits at the expense of uninformed consumers". Financial advice, insurance, and wealth management are areas where "experts" possess such an information advantage. In a number of the examples outlined below, many customers did not even know that they had been exposed to losses due to the poor behaviour of the financial institutions they had dealt with. While not all financial products and services are credence goods, the problem of asymmetric information between provider and purchaser is pervasive.

Fees for No Service (FFNS)

Commissioner Hayne described several types of activity by banks and financial advisers as "taking money for nothing". The common practice of advisers (including in some superannuation scheme arrangements) of charging their clients an annual fee for managing their affairs, such as involving an annual review, but not actually having provided any such services over the year was one example. ASIC had reported on its investigations into this in 2016 and reported in 2019 that it had been unable to get the major banks and AMP (the chief offenders) to quickly rectify such problems and provide remediation to customers. The Hayne RC induced more concerted efforts by those institutions to resolve the issue (and led to legislation in March 2021 aimed at preventing repetition of FFNS). As well as paying large amounts of remediation to customers, incurring significant resource costs in identifying and dealing with cases, and in some cases incurring fines and being required to enter enforceable undertakings (EUs) to take specified actions, the banks accelerated their exit from financial advice subsidiaries.

Another was numerous instances of advice, management and insurance fees being charged by major bank wealth management divisions and AMP to superannuation accounts of dead customers. Arguments that these resulted from deficiencies in systems and lack of reporting of deaths, rather than reflecting a pursuit of profit were generally found by regulators to be wanting (particularly given the long time such practices had continued in many cases).[1]

Precise figures on the costs which Australian financial institutions have incurred by way of remediation payments and associated expenses for these specific types of misconduct are hard to calculate (since they are often reported as part of broader provisions etc). But it seems clear that they are approaching $10 billion or more for the industry. (For comparison total annual profits of the four major banks in 2019 was $26.9 billion).

Sales of Unsuitable Products (including "Add-On" Insurance)

The Hayne RC observed many instances of sales of unsuitable products. Insurance products were one such area. Funeral insurance, for example, often sold to very young people, generally had a very low "money's worth" feature, meaning that the ratio of claims paid to insurance premiums received was very low, and there was a high rate of cancellations.

A common practice exposed by the Hayne RC was that of sales of "add-on" insurance at the time of purchase of a product. One example is a contract (policy) providing an extended warranty period following purchase of a car or a white good. The available data indicates that, in general, such insurance is not worth anywhere near the money paid for the policy with overall payouts being a quite small proportion of policy premiums received. By being sold at the time of the product purchase, there was considerable evidence of high-pressure sales tactics often of unsuitable insurance which would be difficult for the customer to claim against.

One particular type of "add-on" insurance is "consumer credit insurance" or "payments protection insurance " (PPI) which has been a cause in the UK of large penalties and remediation expenses incurred by banks (see Chapter 25). Supposedly, such insurance provides protection if a credit card user or borrower finds themselves in circumstance which make them unable to meet repayment obligations. But, generally, terms and conditions were specified in such a way as to make it exceedingly difficult to claim. This was also found to be a problem in Australia by the RC, with examples (sixty-four thousand at one

[1] One response aimed at reducing exposure to such risks of breaches of law (and good conduct) has been the creation by a private business of an improved "deaths registry" available to financial institutions.

bank) of unemployed credit card applicants being sold such insurance, despite their unemployment being a condition which would preclude them from being able to make a claim.

The Hayne RC recommended that a "deferred sales" model be required, such that add-on insurance could not be sold at the time of the product sale, but only after some specified elapse of time. While the government passed legislation in December 2020 specifying a required time gap of 4 days, it has since provided a number of exemptions to that legislation for certain insurance products which consumer groups assert are unwarranted.

The RC also found many instances of unsuitable lending practices, violating responsible lending obligations (RLOs), including undue reliance on information about borrower's payment capacity submitted by intermediaries (such as mortgage brokers, or "introducers")[2]. Offers of special, low, interest rates for transferring the balance owed to another bank on a credit card to a new credit card of the offering bank, have also been subject to concern. Marketed as a "debt solution", the minimum monthly repayment requirements and complex arrangements for determining how the low rates apply when new borrowings interact with the transfer balance raise questions of suitability of such offers.

Given its mandate, and time limitations, the Hayne RC did not focus on sales of unsuitable investment products or securities or derivative products. That is an area which has been, and remains, of concern for financial consumer protection (see Chapter 25).

"Hawking" of Financial Products

A harmful practice identified by the Hayne RC was consumers purchasing unsuitable products as a result of "offers to sell or issue financial products to a retail client in the course of, or because of, unsolicited contact". Case studies identified such "hawking" of superannuation and insurance products as particular areas of concern, although offers of securities or interests in managed investment schemes are also relevant. The December 2020 legislation (to commence in October 2021), reflecting the RC's recommendations, imposed a general ban on financial product hawking.[3]

This is a potentially problematic area which impacts upon sales practices of financial institutions. Banks and other financial institutions had adopted sales and marketing practices giving staff incentives to try and sell customers additional products and services with an objective of capturing a "larger share of wallet". If a bank customer purchasing a particular product (eg a term deposit) is advised about and

[2] Some banks provided remuneration to third parties (including hairdressers or other providers of services) who "introduced" a potential borrower to the bank, leading to a loan.

[3] Because "credit" is not defined by law as a financial product or service, unsolicited offers to lend money would appear to fall outside the hawking prohibitions!

offered an additional product (eg a bank issued security) without requesting it – is that "hawking"? The explanatory memorandum for the December 2020 legislation indicates that it intends to "clarify the definition of hawking for a financial product to include selling of a financial product during a meeting, call or other contact initiated to discuss an unrelated financial product".

Also problematic is the issue of how retail customers obtain information about the existence and features of financial products of which they have had no prior experience or knowledge. Advertising and marketing of financial products is not considered hawking – as long as it is merely a provision of information and does not incorporate an explicit offer of sale or invitation or request for the customer to purchase. So, in the case of the bank employee referred to above, providing information about the product is not "hawking", but providing (for example) an application form if that has not been requested most likely constitutes hawking. Nor would a registered financial adviser issuing securities to a client as part of providing advice be considered "hawking" because of their requirement to act in the best interests of the client.

The explanatory memorandum for the legislation provides a number of explicit examples which illustrate how difficult it can be to draw the boundary between hawking and non-hawking. A consequence for financial institutions is the need for significant investment in staff training to create awareness of the boundary.

Commission Payments and Remuneration Practices

The Hayne RC highlighted the inconsistency in the wide-spread practice of agents in the financial sector supposedly acting in the best interests of their clients, but receiving remuneration from other parties whose products and services they were recommending or selling to their clients. The practice was common in the areas of mortgage broking, financial advising, wealth management and insurance. For example, mortgage brokers receive remuneration in the form of an up front and trailing commission from the bank with whom their client takes out a loan – giving a self-interested broker an incentive to direct clients to banks offering the best commissions – even if that was not the best deal for the client. The same applies for insurance brokers (although in years gone by many insurance agents sold products of only their employing company, thus somewhat lessening the problem). Likewise with financial advisers who could direct clients to invest in financial products generating the best commissions (including "in-kind" or "soft" commissions)[4] for the adviser. The agent needs a strong "moral compass" to avoid putting their own self-

[4] In-kind or soft commissions could include the product manufacturer providing the adviser with free access to computer software, entertainment, travel to conferences etc.

interest ahead of the best interests of the client. While law and regulations might try to ensure that client interest takes precedent, it can be very difficult to prove violation of that principle.

Such practices emerge because the remuneration of the agent does not then involve an explicit payment by the client – which, if required, might deter them from using the services of the agent. While informed clients should be aware that they are, in some way, indirectly bearing the cost of using the agent, few would be aware of how much that cost might be. Similarly, few would be aware of the conflicts of interest which such remuneration practices create and which can work to their disadvantage.

For example, if commissions are positively linked to the size of a product, the agent has an incentive to recommend a larger sized product to the client. Unless the size of trail commissions relative to up-front commissions deter such behaviour, the agent will have an incentive to "churn" the client – swapping them between products to maximise commission income.

Justice Hayne was firmly of the view that to avoid such conflicts of interest, the client should be the one paying the remuneration of the agent, and made recommendations aimed at changing commission arrangements and ensuring adherence to client "best-interest" responsibilities.

As well as financial advisers, high commissions were also paid by insurers to car dealers for sales of "add-on" insurance products. Car dealers (and also retail outlets) also received remuneration from banks via the practice of them signing up car purchasers to loans to finance the purchaser, under the "Point of Sale" exemption. This exemption, initially introduced as a temporary measure in 2010, meant that such entities could act as a loan intermediary without having an Australian Credit Licence (or being a representative of an ACL holder) and thus avoiding a range of resulting (consumer protection) requirements. Often that remuneration came via interest rate on the loan exceeding the bank's base rate for such deals, with the dealer benefitting from the difference via commission payments from the bank.

Claims Handling and Settlements

One of the features of financial products is that they involve future cash flows, which may be contingent on certain events – such as in the case of insurance. Financial consumer harm can occur when the provider of the product (such as an insurer) does not abide by the terms of the contract – or has written the contract in such a way that consumers are unaware that certain claims, which the consumer expects will be met, are excluded from the coverage. This issue had already been a cause of concern with regard to life insurance, with a Parliamentary Inquiry into it commencing in September 2016, and ASIC report 498 being published in October 2016. Similar concerns existed for the general insurance industry – and had become a major issue of contention over the lack of coverage of flood damage in home insurance policies.

Bushfire natural disaster related claims were one focus of the RC with issues arising surrounding house replacement and temporary accommodation arrangements. Substantial concerns also existed in the settlement practices over workers compensation claims and total and permanent disability (TPD) claims.

Even where ASIC had concerns over such practices, it was unable to act to resolve those because of an anomaly in the legislation that did not include claims handling and settlement as a financial product – putting the area beyond ASIC's remit. As well as the insurers involved, other entities involved in the claims handling process include intermediaries acting on behalf of, or providing advice to, claimants as well as third parties to whom some of the handling and settlement processes have been outsourced. All of these entities face compliance and licensing requirements as a result of the RC recommending that claims handling should be classified as a financial product.

The RC exposed a number of case studies of poor claims settlement practices. In some cases insurers took several years, and only after multiple complaints, to pay income protection claims resulting from an event resulting in disability. In others, the definition of trauma used was so restrictive as to enable the insurer to avoid making expected payments. A general concern was that claims officers had incentives to find reasons to avoid the insurer making a payment to the insured. Another was the way in which terms and conditions were written so as to enable the insurer to avoid a payment which the insured could reasonably be expected to be received.

7.4 Causes of Misbehaviour

Before discussing the RC's analysis of the causes of misbehaviour, it is worthwhile noting that there is a substantial literature examining determinants of outcomes in markets for credence goods. In their survey Balafoutas and Kerschbamer (JBEF, 2020) illustrate how different outcomes regarding under-servicing, over-servicing, over-pricing, cheating can emerge depending on specific market characteristics. These include *inter alia*: the nature of liability rules; verifiability of outcomes; presence or absence of sellers who have preferences incorporating social outcomes rather than just self-interest; relative numbers of informed versus uniformed customers; competitive conditions in the market; the degree of asymmetry of information.

These are clearly important considerations, but most of those studies do not focus on the nature and conduct of the organisation which is the ultimate seller of (in the current context) financial products and services and credit – employing and motivating sales staff via remuneration structures and KPIs etc. And

that was the focus of the Hayne RC, since it was directed to examine bad behaviour of banks and other financial **entities**, rather than primarily bad behaviour of individuals.

In its Final Report (pages 1-3), the RC made clear its perspective on the underlying cause of problems.

> "First, in almost every case, the conduct in issue was driven not only by the relevant entity's pursuit of profit but also by individuals' pursuit of gain, whether in the form of remuneration for the individual or profit for the individual's business. Providing a service to customers was relegated to second place. Sales became all important.".[5]

> "Second, entities and individuals acted in the ways they did because they could…. There was a marked imbalance of power and knowledge between those providing the product or service and those acquiring it."

> "Third, consumers often dealt with a financial services entity through an intermediary…. [who is] paid by, and may act in the interests of, the provider of the service or product."

> "Fourth, too often, financial services entities that broke the law were not properly held to account."

Davis (ELRR, 2019) describes the institutional failings found by the RC as follows.

> "Competency standards were not always adequate and business remuneration models gave rise to conflicts of interest which were not necessarily disclosed to the customer. Governance arrangements were inadequate to ensure that ethical standards and behavioural objectives professed by company leaders were maintained throughout the organisation. Legal and regulatory complexity allowed for unscrupulous actors to find loopholes for personal enrichment at the expense of customers. Regulatory enforcement practices did not appear to provide adequate punishment nor general deterrence to inhibit unacceptable behaviour. Self-regulation by industry and professional associations failed to prevent misconduct and poor behaviour (at least partly attributable to self-interest of decision-makers in those bodies)."

[5] It is perhaps worth noting that the "not-for-profit" institutions, mutual ADIs and industry superannuation funds, emerged largely unscathed by the RC (although that is not to say that further investigation might not have identified problems of misconduct by some).

7.5 The Recommendations and Government Response

The RC Final Report provides 76 recommendations most of which it indicates (page 43) can be classified under the headings of:

> " • How can the law be simplified so that its intent is met?
>
> • How should the approach to conflicts of interest and conflicts between duty and interest change?
>
> • What can be done to improve compliance and the effectiveness of the regulators? and
>
> • What more can be done to achieve effective leadership, good governance and appropriate culture so that financial services entities obey the basic norms of behaviour that underpin the proper regulation of the financial services industry?"

Some of the recommendations involved maintaining current regulations or supporting regulatory changes already underway or under consideration. Rather than attempting to summarise all the recommendations, this section focuses on a few which have either proven controversial or are particularly significant and novel, and of particular relevance to banks. Some others have also been referred to above, such as recommendations regarding "no hawking of financial products", "deferred sales model for add-on insurance", and claims handling being classified as a financial product.

Responsible Lending Obligations (RLOs)

The RC recommended that the RLO regime should be maintained for the protection of retail borrowers, and this was accepted by the government. However, the government subsequently tried unsuccessfully in 2021 to remove the RLO regime.

Remuneration

Concerns about conflicted remuneration and adverse incentives arising from remuneration models underpinned a number of RC recommendations. One was that that the borrower, not the lender should pay mortgage brokers, to give greater incentive for brokers to put the best interests of their clients first. The government rejected this recommendation following intense lobbying from the industry. More generally (and particularly for advice and insurance) the RC recommended that steps should be taken to remove conflicted remuneration, including supporting the recommendations of the 2017 Sedgwick Review (commissioned by the Australian Banking Association) regarding retail banking remuneration. The RC also recommended that APRA should increase attention to remuneration systems as part of its prudential regulation and supervision.

Best Interest Duties

Conflicts between self interest of agents/intermediaries and interests of a client were seen as an important problem by the RC. It recommended legislative changes to ensure brokers act in best interests of borrowers. It was also recommended that mortgage brokers should be subject to the same legal and regulatory requirements as financial advisers.

Point of Sale (POS) Exemption

The RC recommended that the POS exemption which enabled retail dealers in goods and motor vehicles to offer loans from banks, without having an ACL, should be abolished.

Industry Codes of Conduct and Role of Industry Bodies

The RC recommended certain changes to industry codes of conduct, and that such codes should be approved and become enforceable by ASIC. The Australian Bankers Association made a number of changes to its banking code of conduct (which is being reviewed in 2021) as a result. In some sectors the mechanisms (or incentives) for industry bodies in disciplining members for poor behaviour were seen as inadequate and recommended for improvement.

BEAR Product Responsibility

The RC recommended that in addition to other bank executives responsible for key areas being subject to the BEAR regime, an executive should be identified as having responsibility for all aspects of financial product design, delivery, and maintenance, as well as any resulting remediation requirements.

Culture and Governance

Given the responsibility for misconduct and misbehaviour attributed by the RC to poor culture and governance, it is hardly surprising that several recommendations were directed towards this issue. However, other than exhorting financial entities to continuously pay attention to, and recommending APRA focus on, these topics, there is little regarding specific actions in the recommendations. Given the somewhat nebulous nature of these issues, a lack of detail is perhaps not surprising.

Regulation and Supervision

The RC criticised ASIC and APRA for inadequacies in the performance of their duties. In particular, it suggested that ASIC should adopt a "why not prosecute" approach to misbehaviour instead, as had generally been its practice, of engaging with institutions to negotiate settlements, and agreeing enforceable undertakings to prevent re-occurrence of such behaviour. While ASIC initially appeared to adopt the recommended approach, it is unclear whether that is a better approach. As noted earlier, one issue with credence type goods is in identifying the extent and nature of wrong-doing,

including by receiving information from other industry participants, or by “self-reporting”. Regulators need to take the effect of their enforcement and prosecution approaches on incentives in this regard into account in design and application of enforcement actions.

Relevant in this context are the resources available to, mandates of, and incentives and accountability of regulators. The RC made some recommendations regarding powers available to regulators and an accountability framework for regulators, but did not recommend increased resourcing of regulators unless the regular “capacity reviews” it recommended suggested such a need.

Omissions from the Recommendations

It is worth noting that the RC did not make recommendations in a number of key areas. This is perhaps to be expected given its limited mandate and time, and the fact that “large” fundamental changes to the structure of the financial sector warrant more detailed scrutiny. However, having identified the pursuit of profit as a key cause of problems, it did not recommend any changes to the usual profit-orientation model of financial institutions which operate as joint-stock (eg ASX-listed) companies and which have received valuable “social licences” to operate as banks (or other types of financial institutions). It also did not recommend examining whether the “not-for-profit” area of the financial sector (eg mutual ADIs) could (or should) be encouraged as an alternative.

Also, while governance was seen as a major failing, the RC did not suggest any specific changes to governance models – which give primacy to shareholder interests. Adopting a “dual-board” model common in Europe, or other mechanisms to give other stakeholders (employees, customers) a measure of influence via board representation, were possibilities not pursued. Nor did the RC pursue the possibility of requiring bank boards to give priority to depositor interests (noting that equity only provides around 5 per cent of the funds used by a bank). Such a requirement applies in life insurance where boards are required to give priority to policy-holder interests.

By focusing on misconduct by suppliers of financial products and services (as per its mandate), rather than financial consumer protection, the RC did not explicitly consider measures associated with the demand side of the market, such as improving financial literacy and education.

The RC also did not provide any recommendations regarding structural restrictions on banks and other financial institutions. For example, it did not examine the consequences of vertical and horizontal integration – areas where many have argued that restrictions have merit on competitive or behavioural grounds. Perhaps this was unnecessary since the banks have since been going through a rationalisation

process of discarding "non-core" businesses (see Chapter 5) which have not proven as profitable as hoped and where many of the problems identified by the RC occurred. It also did not consider whether "ring-fencing" restrictions, such as applying in the UK (see Chapter 4), might have merit by limiting adverse cultural, remuneration, and behavioural spillovers from trading and investment banking activities (as well as hopefully improving financial system stability).

7.6 Consequences for Banks

Identifying potential consequences of the RC for banks is confounded by the concurrent implications of the fintech revolution and the ongoing agenda of financial regulatory change which was occurring independently of the RC.

While the reputations of banks suffered during the course of the RC, the Final Report did not appear to bring any unpleasant surprises in terms of recommendations adversely affecting future bank profitability and growth. (There was no significant decline in bank stock prices when the Report was released)!

In the short run, the "naming and shaming" and exposure of poor behaviour which inadequate internal governance mechanisms and "cultures" permitted, combined with increased regulatory scrutiny, has led to much greater attention being paid within banks to governance, culture, and compliance. Increased, or "tougher" regulatory and supervisory oversight is likely to persist. Banks had already decided that exiting from "non-core" businesses was a desirable strategy.

There is little if anything in the RC recommendations which would adversely affect the size and growth of "basic banking" – the process of intermediating between depositors and borrowers – by significantly affecting the costs associated with intermediation. Likewise, while the RC was primarily focused on harm caused to retail financial customers, there is little reason to expect any shift in the composition of intermediation – even though the relative profitability of past retail intermediation was part "illusory" when remediation payments are taken into account.

The RC coincided with a trend decline in profit rates and market/book ratios of the major banks, but it is unclear how much of that (which had been happening since around 2014) can be attributed to the RC rather than other factors. The RC's effect was via short run costs of customer remediation and business process changes to ensure compliance etc., and gains or losses on divestments of non-core businesses (which was in train anyway).

Overall, any longer term effects of the RC on banks are likely to be swamped by fintech developments and the emergence of the COVID crisis in 2019. The latter has led to major changes in government policies including ultra-low interest rates, high system liquidity, cheap funding for banks, and government

"business/bank friendly" policies (designed to offset the effects of lock-downs) which may have the potential to undermine some of the financial consumer protection benefits of the RC recommendations.