



21 November 2019

Tim Gough

Senior Executive Leader
Credit, Retail Banking and Payments
Australian Securities and Investment Commission
Via email.

Dear Mr Gough

RE: Complaint about Aussie Home Loans misleading and deceptive advertising claims

Buying a mortgage can be the biggest financial decision a person will make in their lifetime.

Consumers need to have confidence that mortgage broking advertisements are truthful and accurately reflect the services that the industry provides.

This complaint focuses specifically on the claims by Aussie Home Loans who are Australia's largest mortgage broker aggregator. Between 2016 and 2018, Aussie Home Loans spent \$25 million in advertising across TV, online advertising, in-store marketing and social media on a revamped campaign.¹ This sustained and well-funded advertising misleads consumers into believing that Aussie Home Loans will scan the market to provide a high-quality loan. However, Aussie Home Loans are not an isolated case study. Their advertising is indicative of misleading and deceptive conduct across the mortgage broking industry.

In November 2019, we asked CHOICE supporters to investigate the advertising claims of the mortgage broker industry.² CHOICE uncovered a concerning number of claims that are potentially misleading or deceptive or that are likely to mislead or deceive consumers.

This complaint will focus on three potentially misleading and deceptive aspects of mortgage broking advertising. They are:

¹ Aussie Home Loans, 2018, 'Aussie Wins Industry Award for Brand Campaign and Breathing New Life into the Iconic "We'll Save You" Slogan'
<https://www.aussie.com.au/about-us/news/aussie-wins-industry-award-for-brand-campaign-and-breathing-new-life-into-the-iconic-well-save-you-slogan.html>

² A sample of the claims found by our supporters are found in the Appendix

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- *“Brokers will find people a high quality loan”*. Brokers are not finding people cheaper priced loans than if a person goes directly to a lender.³ They are providing people with riskier loans that take longer to repay and are more likely to fall into arrears. Brokers are recommending mortgages that maximise their commission, rather than benefiting consumers.
- *“Brokers will scan the market to find the best product”*. Brokers are sending 80% of loans to four specific lenders only.⁴ As a result, they are offering consumers a very limited range of loans to choose from. In addition, Aussie Home Loans, who is owned by the Commonwealth Bank, sends two in five loans back to the Commonwealth Bank.⁵
- *“Mortgage brokers are ‘free’”*. Commissions paid to brokers add 16 basis points per annum to the cost of every residential mortgage in Australia.⁶

These misleading claims have been a long standing issue for consumers. CHOICE has raised concerns about these claims directly with the mortgage broking industry through the Combined Industry Forum, as well as with the Productivity Commission and the Banking Royal Commission. However, the industry has failed to improve their conduct and continues to advertise to consumers using claims likely to mislead or deceive them.

CHOICE asks that ASIC investigate whether the advertising of the mortgage broking industry, and in particular the conduct of Aussie Home Loans, is in breach of Section 12DA and Section 12DB of the *Australian Securities and Investment Commission Act 2001* (the Act). We urge ASIC to investigate these concerns and stamp out claims that mislead and deceive consumers who are looking to purchase a mortgage.

1. The mortgage broker industry will consumers find a high quality loan

“Our team of 5 fully qualified Aussie Mortgage Brokers can search hundreds of loans from lenders and banks alike to find one that's perfect for you”⁷

Aussie Home Loans online advertisement

“We'll save you! We can compare home loans from a large panel of lenders to find a better deal for you”⁸

Aussie Home Loans online advertisement

The CHOICE community found a range of advertising claims by Aussie Home Loans stating they will find people a “perfect loan”, “a better deal” or even a “good” quality loan. CHOICE is concerned that

³ ASIC REP 516 Review of mortgage broker remuneration, p.15

⁴ ASIC Report 516, p.19

⁵ ASIC Report 516, p.19

⁶ J Mott and R Bentvelzen 2017, ‘Australian Banking Sector Update: Are Mortgage Brokers overpaid?’ UBS, report available on request.

⁷ <https://www.aussie.com.au/find-store/wa/belmont.html> Accessed Thursday 7 November 2019, images available on request

⁸ <https://www.truelocal.com.au/business/aussie-home-loans/menai> - Tuesday 12 November 2019, images available on request

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consumers who have seen these ads are likely to have formed the incorrect impression that mortgage brokers will scan the market to find them a high-quality loan, when the industry has failed to achieve this. A mortgage broker has the legal obligation to arrange a “not unsuitable” loan. In the above advertising, there is a clear implication that brokers act for the customer and help them get a good quality loan based on their individual needs.

However, the mortgage broking industry is not delivering people good quality loans. For example, ASIC investigated whether interest rates were different between going straight to a lender or going to a mortgage broker. ASIC research found that brokers are not providing people with cheaper priced loans than when they go direct to the lender.⁹ They also found that brokers are selling people into riskier loans, that are more likely to fall into arrears and take longer to pay back.¹⁰ In light of this evidence, advertising that claims that mortgage brokers will find consumers a ‘perfect’ loan must be considered to be misleading or deceptive, or likely to mislead or deceive people.

The current broker remuneration structure incentivises brokers to act in ways that puts customer interests well behind their own commercial interests and the interests of lenders. This leads to poor quality loan recommendations. As the recent ASIC Review concluded, broker commissions create two different kinds of conflicts:

1. Product-strategy conflict: where a “broker could recommend a loan that is larger than the consumer needs or can afford to maximise their commission payment”.¹¹
2. Lender-choice conflict: where a broker “could be incentivised to recommend a loan from a particular lender because the broker will receive a higher commission, even though the loan may not be the best loan for the consumer”.¹²

The commissions that brokers receive directly affect the quality of recommendations they provide to consumers. Brokers are incentivised to provide a loan that maximises their commission, rather than one that is in the best interest of their customers.

Years of consistent and well-funded industry advertising reinforces the perception of consumers that brokers will find them a good quality loan. Recent ASIC consumer research found that people who engage with a mortgage broker have the expectation that the broker will find them the ‘best’ loan.¹³ When researchers asked people what the ‘best’ loan meant, “approximately two-thirds of responses referred to low or competitive interest rates and/or the cost of the loan”.¹⁴ Consumers reported the ‘best’ loan as:

- “Is the cheapest”

⁹ ASIC Report 516, p.15

¹⁰ ASIC Report 516, p.16

¹¹ ASIC Report 516, p.10

¹² ASIC Report 516, p.10

¹³ ASIC REP 628, Looking for a mortgage: consumer experiences and expectations in getting a home loan, p.6

¹⁴ ASIC REP 628, p.17

- “The loan with the lowest interest rates”
- “The best interest rate”
- “Flexible with a low interest rate”
- “Low fees and low interest with no strings attached”
- “I can pay off quickly with low rates”

ASIC found that 74% of consumers who engaged with a broker thought they had received close to the best interest rate.¹⁵ This is a direct consequence of sustained marketing pressure by the broking industry to convince consumers that they will find people the best rate. However, brokers are still selling people into riskier loans that take longer to repay.

Claims by Aussie Home Loans that they will find consumers a ‘perfect loan’ or ‘better deal’ are misleading and deceptive. CHOICE urges ASIC to investigate these misleading advertising claims and take action to stamp them out.

2. The broker industry’s claims to search the market and find a good loan

“Find the best mortgage rate by comparing from over 3000+ home loans”¹⁶

Aussie Home Loans online advertisement

“We’ll save you! We can compare home loans from a large panel of lenders to find a better deal for you.”¹⁷

Aussie Home Loans online advertisement

“Aussie will shop around to find you the best deal which could save you thousands”¹⁸

Aussie Home Loans radio advertisement

Aussie Home Loans claims that their brokers will scan the market to get the best deal for customers. Evidence shows that brokers typically only recommend one or two loans to each client, drawing on a small number of the same lenders. These claims from Aussie are particularly worrying because of the institutions history of prioritising loans to its parent company: the Commonwealth Bank.

People go to mortgage brokers for trusted guidance on searching the market to find the best deal. However, brokers currently offer a very limited range of loans from lenders and regularly send loans back to their lender-owned aggregators.¹⁹ Despite industry advertising that mortgage brokers shop around and use a range of lenders, ASIC found that on average, brokers send 80% of loans to only four

¹⁵ ASIC REP 628, p.20

¹⁶ Aussie Home Loans, google advertisement, Thursday 14 November 2019, images available on request.

¹⁷ <https://www.truelocal.com.au/business/aussie-home-loans/menai> - Tuesday 12 November 2019, images available on request

¹⁸ Aussie Northern Reviews radio advertisement - Triple Z FM, Wednesday November 6, 2019, audio available on request

¹⁹ ASIC REP 628, p.6

preferred lenders.²⁰ In other words, the mortgage broker industry relies on an illusion of choice to induce consumers into engaging their services.

The industry regularly claims they will provide consumers with a range of loans to choose from. Despite these claims, six in ten (58%) consumers received two or less loan options from brokers.²¹ A third of all people who took out a loan with a broker receive just one home loan option. ASIC found that,

‘it was not always clear that brokers had presented a loan recommendation or options in a way that enabled consumers to understand the objective criteria behind the recommendation of the specific loan(s).’²²

People have complex financial needs. Home loans come with different options and features. A broker should provide people with a range of mortgage options from a range of lenders to ensure that people find the loan that best matches their financial objectives. It is concerning that a third of all brokers are only presenting people with one loan option. Any advertisement that claims that brokers present a range of options to consumers when data shows they regularly only offer one or two options must be considered misleading and deceptive conduct.

The recent growth of lender-owned aggregators has seen a rise in aggregators sending loans straight back to their parent bank.²³ Despite claims to “shop around” and “compare from over 3000+ home loans”, Aussie Home Loans send two in five loans straight back to the Commonwealth Bank, which owns the company.²⁴ This is regularly achieved through selling consumers Commonwealth Bank white-label loans on their panel.

ASIC should investigate claims that the industry will scan the market from a range of lenders and consider whether this is misleading and deceptive conduct, or likely to mislead or deceive consumers into engaging the services of a broker.

3. False or misleading representation that mortgage broking is a ‘free’ service

“Best of all - the service is free”

Aussie Home Loans radio advertisement²⁵

“Book your free personal appointment with an Aussie mortgage broker, it's time well spent.”

Aussie Home Loans website²⁶

²⁰ ASIC Report 516, p.19

²¹ ASIC REP 628, p.8

²² ASIC REP 628, p.9

²³ Productivity Commission, 2018, Competition in the Australian Financial System, p.307

²⁴ ASIC REP 516, p.18

²⁵ Aussie Northern Reviews radio advertisement - Triple Z FM, Wednesday November 6, 2019, audio available on request

²⁶ <https://www.aussie.com.au/mortgage-broker/request-a-free-appointment.html>, accessed 7 November 2019, images available on request

CHOICE requests that ASIC investigate whether claims made by the broking industry that their services are “free” is in fact a false or misleading representation under Section 12DB of the Act. This claim induces consumers into engaging with the services of a mortgage broker, however mortgage brokers are not free. Borrowers across the Australia financial system, including people who engage with a mortgage broker, pay for the cost of mortgage broker commissions.

In addition, research from UBS has found that commissions paid to brokers add 16 basis points per annum to the cost of every residential mortgage in Australia, irrespective of whether the mortgage was broker or lender originated.²⁷ In the course of their research, they found that,

“Although mortgage broker commissions are paid by the bank not the customer, commissions are factored into the bank’s cost of funding and have been a driving factor in mortgage repricing in recent years.”²⁸

This 16 basis point cost is particularly significant in Australia’s low interest rate environment when variable interest rates for residential mortgages are now below 3%.

For further information please contact CHOICE on pveyret@choice.com.au



Yours sincerely,

Patrick Veyret

Policy and Campaigns Adviser

²⁷ J Mott and R Bentvelzen 2017, ‘Australian Banking Sector Update: Are Mortgage Brokers overpaid?’ UBS, report available on request.

²⁸ J Mott and R Bentvelzen 2017, ‘Australian Banking Sector Update: Are Mortgage Brokers overpaid?’ UBS, p.3 report available on request.

Appendix - Misleading and deceptive claims found by CHOICE supporters

Over a week period between 7 November - 14 November, CHOICE supporters investigated advertising claims within the mortgage broking industry that appeared to be misleading and deceptive. Below are a sample of advertising claims that CHOICE supporters and members found.

*"While we have access to hundreds of products via our panel of lenders, it's expert financial advice plus a cleverly structured loan, that will ultimately save you thousands."*²⁹

*"Whether you want to purchase your first home, or expand your business venture, our renowned mortgage brokers Campbelltown, helps secure the perfect loan that will facilitate your dreams."*³⁰

*"Finding the right loan for your specific needs calls for patience, knowledge, insight, negotiation and time – and it's what we do. We'll save you thousands of dollars by tailoring innovative solutions that meet your short and long-term objectives, eliminate the stress involved in comparisons and paperwork and save you time – for FREE."*³¹

*"We negotiate better rates with more than 30 lenders for you"*³²

*"We'll compare over 20 lenders and secure a great rate for you."*³³

*"Aussie Darwin is your local mortgage brokers, based in Darwin and servicing the entire Northern Territory. We find you the home loan that suits your needs from the hundreds available on our panel of lenders. Why spend weeks running around to dozens of lenders to get the best deal, when we can search home loans from our panel of lenders in just minutes. Our Northern Territory and Darwin mortgage broking service is fast and free."*³⁴

*"Partner with the loan expert at Darwin Mortgage Broker to make sure you get the best deal possible secure your family's financial future."*³⁵

*"We've created a suite of our own great home loans. With highly competitive rates, we can provide a the [sic] best solution for your needs."*³⁶

"Then we will shop around and negotiate with the banks on your behalf to ensure you are getting the home loan best suited to your unique situation."

²⁹ <https://www.financebureau.com.au/> accessed Tuesday 12 November

³⁰ <http://cosciafinance.com.au/> Accessed Thursday 7 November 2019

³¹ <https://www.mintmoney.com.au/> accessed Tuesday 12 November

³² <https://www.lendi.com.au/lp/book-appointment/> Accessed Thursday 7 November 2019

³³ <https://www.mortgagechoice.com.au/hello/mortgage-choice-brokers/> Accessed Thursday 7 November 2019

³⁴ <https://www.aussie.com.au/find-store/nt/darwin.html?> Accessed Wednesday 6 November 2019

³⁵ <http://darwinmortgagebroker.com/mortgage-comparison/> Accessed Wednesday 6 November 2019

³⁶ <https://ybr.com.au/home-loans> Accessed Wednesday 6 November 2019

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And it doesn't stop there. We will be with you right through until the loan settles and beyond - and best of all, this service is completely free (we are paid by the lenders).³⁷

"Everyone we meet with want's value, want's to obtain the best result possible and we're passionate about transferring our knowledge and experience to help our clients achieve great results when obtaining finance!

From securing great home loan deals and keeping lenders honest, through to finance solutions that really understand business needs.³⁸

"Home Loan Connexion helps you find the right home loan to suit your needs and save you money.³⁹

"Smartline Mortgage Brokers Busselton make the task of finding the right home or investment loan easy, saving you time and money.⁴⁰

³⁷ <https://www.mortgagechoice.com.au/david.lynam/> - Accessed Wednesday 6 November 2019

³⁸ <https://www.premiummortgage.com.au/> - Accessed Wednesday 6 November 2019

³⁹ <https://homeloanconnexion.com.au/our-services/first-home-buyers/> Accessed Thursday 7 November 2019

⁴⁰ <https://www.yourmortgage.com.au/home-loans/best-home-loans/> Accessed Friday 8 November 2019

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