

Royal Commissioner Kenneth Hayne has identified “greed” as the key reason banks and other financial institutions repeatedly broke the law, along with an inability to manage, and repeated decisions by the Securities and Investments Commission and the Prudential Regulation Authority not to properly punish them.

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The [three-volume interim report](#) of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, released today, concludes that Australia's banks have built every part of their operations around selling, to maximise profits, at the expense of serving their customers' needs.

The report says:

Selling became their focus of attention. Too often it became their sole focus of attention. Products and services multiplied. Banks searched for their “share of the customer's wallet”. From the executive suite to the front line, staff were measured and rewarded by reference to profits and sales... How else is charging continuing advice fees to the dead to be explained?

The report reaches damning conclusions about the management systems in place at the Commonwealth Bank and the National Australia Bank, saying they were the only two organisations unable to furnish a proper list when asked about the misconduct they had been aware of over the previous five years:

Taken together, the course of events and the explanations proffered can lead only to the conclusion that neither CBA nor NAB could readily identify how, or to what extent, the entity as

a whole was failing to comply with the law.

If that is right, neither the senior management nor the board of the entity could be given any single coherent picture of the nature or extent of failures of compliance; they could be given only a disjointed series of bits of information framed by reference to particular events.

It says when misconduct was revealed, it either went unpunished or hurt the perpetrators little:

The corporate regulator ASIC rarely went to court to seek public denunciation of what had been done. The prudential regulator, APRA, never went to court.

Much more often than not, when misconduct was revealed, little happened beyond apology from the entity, a drawn out remediation program and protracted negotiation with ASIC of a media release, an infringement notice, or an enforceable undertaking that acknowledged no more than that ASIC had reasonable “concerns” about the entity’s conduct.

Infringement notices imposed penalties that were immaterial for the large banks. Enforceable undertakings might require a “community benefit payment”, but the amount was far less than the penalty that ASIC could have properly asked a court to impose.

Commissioner Hayne says in the report that it may be pointless to introduce new laws designed to achieve what the existing laws did not:

The law already requires entities to “do all things necessary to ensure” that the services they are licensed to provide be provided “efficiently, honestly and fairly”. Much more often than not, the conduct now condemned was contrary to law... Passing some new law to say, again, “Do not do that” would add an extra layer of legal complexity to an already complex regulatory regime. What would that gain?

What is needed is better enforcement in order to ensure that banks and other financial institutions apply basic standards of fairness and honesty “by obeying the law, not misleading or deceiving, acting fairly, providing services that are fit for purpose, delivering services with reasonable care and skill, and, when acting for another, acting in the best interests of that other?”

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Commissioner Hayne says the basic ideas are very simple.

That means there is a case for the laws being made even simpler rather than more complex to reflect the ideas better.

Receiving the report, Treasurer Josh Frydenberg said if the regulators enforced the laws but they had at their disposal and imposed the penalties they had available, banks were more likely to comply with the law.

But he said whatever the criticisms of the regulator, it was important to remember who perpetrated the misconduct.

“That was the financial institutions themselves,” he said. “They are ultimately, and the individuals involved, ultimately the ones who must be held accountable and responsible for their actions.”

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[must regulate it](#)

The chief executive of the Australian Bankers Association, Anna Bligh, described the report's findings as "shocking".

"Our banks have failed in many ways – failed customers, failed to obey the law and failed to meet community standards. And all of these failures are totally unacceptable," she said.

"Too many customers have been hurt and it has to stop."

"Australians have every right to expect the world's best banks. It is clear today that as an industry we have failed to deliver that."

Read more: [Embedding regulators in banks can help change cultures of wrongdoing, despite the risks](#)

"Make no mistake, today is a day of shame for Australia's banks."

"Having lost the trust of the Australian people, we must now do whatever it takes to earn that trust back. To move from a selling culture to a service culture, there is much more work to be done in every bank. But every bank is determined to find the problems, to fix them and to pay back every penny."

The interim report released on Friday examined only the behaviour of the banking, financial

Banking Royal Commission's damning report: 'Things are so bad that new laws might not help'

Written by Peter Martin, Editor, Business and Economy, The Conversation

advice and wealth management industries. An entire volume details case studies of misconduct.

The Commission's final report, which will also cover the superannuation and insurance industries, is due on February 1.

Authors: Peter Martin, Editor, Business and Economy, The Conversation

Read more <http://theconversation.com/banking-royal-commissions-damning-report-things-are-so-bad-that-new-laws-might-not-help-104058>