

AFCA Rules Consultation – Publishing Financial Firms names in Determinations

Submission by Legal Aid Queensland



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Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission in response to the AFCA Rules Consultation – Publishing Financial Firms names in Determinations.

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ's lawyers in the day to day application of the law in courts and tribunals.

LAQ's Consumer Protection Unit lawyers provide legal advice and representation to clients about credit law and consumer law matters, including assistance to vulnerable Queensland consumers accessing AFCA regarding credit, debt and insurance related disputes.

LAQ supports AFCA Rules being changed to allow for the names of financial firms to be published in determinations because the changes will:

1. improve the transparency of the AFCA process;
2. allow consumers to make better decisions about financial products by providing them with more information about the performance of individual financial firms;
3. encourage the earlier resolution of disputes by financial firms;
4. highlight both good and the bad practices of individual financial firms; and
5. improve IDR practices at individual financial firms.

Consultation questions:

1. Does the proposed change satisfy AFCA's transparency requirements?

The proposed change to Rule A 14.5 satisfies AFCA's transparency requirements. The strength of the proposed change balances the need for increased transparency through the publication of the financial firm's name in the determination with protecting the privacy and identity of individual consumers by providing a safeguard that ensures a determination will not be published if it risks identifying any party other than the financial firm.

2. Do the Operational Guidelines adequately explain how the Rules as amended will apply?

Yes. LAQ supports the proposed changes to the Operational Guidelines which highlight the ability for parties to request:

- changes to details in the determination if those details can be used to identify a party other than the financial firm;
- the determination not be published if there are compelling reasons; and
- changes after a Determination has already been published.

However, the Operational Guidelines would be further improved if it contained information on:

- the process that should be used by a party to request these changes from AFCA;
- examples of what would be viewed by AFCA as compelling reasons; and
- explanation of when changes to details in the determination risk changing the substance of the determination.

3. Do you have any other comments about the proposed change?

No further comments.