

Institutions balancing consumers and shareholders post-RC

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Major financial institutions could punish shareholders at the hands of prioritising consumer outcome over profit, with current legislation to blame, industry experts contended at a conference this week.

A panel including experts from ANZ, International Venture Group and Thomson Reuters, discussed regulation in the financial services sector following the royal commission at the Refinitiv Australian Regulatory Summit in Sydney this week.

Finance law specialist and executive consultant of the Fold Legal Claire Wivell Plater argued that the consensus from the royal commission that customer satisfaction should come first will result in a lower line of profit for shareholders in the long run.

In regards to how banks have reacted to the Hayne commission and shifted to a customer focus, Ms Wivell Plater said: "I think the response is being punitive to shareholders is because there's an enormous amount of remediation needing to happen for the sins of the past.

"There will be a shareholder impact for that. The impact is like a double whammy, if you like, because there's a lot of profit data that should have never been there because those fees should never have been earned."

She added that banks, insurance companies and superannuation funds, as custodians of families, should not be the organisations making the highest profits available in the market.

"I think that there's a level of profit, which is appropriate, because it's healthy," Ms Wivell Plater said.

"And if it goes beyond that, where the shareholders are being prioritized at the expense of the customers, and then there's something very wrong with that. So I think that balance definitely needs to be rethought."

In contrast, Dr David Millhouse, chairman of International Ventures Group believes shareholder benefits do not have to be shed at the cost of serving consumers, rather

blaming Australia's current legislation for allowing unethical behaviour in the sector.

"Where we've ended up today is that we have a legal framework that does not permit the normal operations of a market economy in the way that benefits everybody," Dr Millhouse said.

"So these are not either or win lose situations at all. You can have a win on both sides, it's not a question that shareholders lose if customers win.

"If you treat your customers as a financial consumer, rather than in this country, historically, as a supplier of capital to whatever scheme, then you can get an outcome that's best for everybody. But the legal framework has been deficient, because it allows quite lawfully egregious behaviour."

Mr Millhouse stated there are three different interpretations in three different statutes of what a financial service is, as well as seven varying definitions of best interest across Australian law.

ANZ internal audit general manager Stephen Davey agreed that financial legislation needs to be simplified and have a clearer intent behind it.

Mr Davey said while regulators should act with a high level of scrutiny and be forensic in their supervision approach, institutions should also be policing themselves.

"If someone's done wrong, and they need to be held to account," he said.

"But equally, we need to be able to provide some level of assurance on the fact that we fixed the problem in addressing what we've done wrong, but also that we've stopped the bleeding, that won't happen again.

"And I think that's perfectly reasonable for regulators to expect that of organisations."