Will Hayne do what he was recruited to do? Almost certainly.

Summary:
A beaut article summarising the possible findings of the Hayne banking Royal Commission. Well done Karen Maley from the AFR. Well worth a read but check out the BRN kicker at the end. All is not as it seems. For years both major parties allowed crime and corruption to fester in finance. It is time for bold new ideas.

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Banking royal commission: What bankers dread will come in Hayne's final report

It's the question on every banker's lips. With less than a week to go before Commissioner Kenneth Hayne delivers his final, fateful report, just how far will he go in extirpating the venal practices and customs of the industry that have been allowed to flourish, virtually untouched, for decades.

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At the centre of the feverish speculation are three key questions:

Will the Commissioner announce flagship reforms that are bound to transform the critical home lending and financial advice markets by, for instance, changing the rules for paying



mortgage brokers or banning vertically-integrated firms.

Will his key report recommend that criminal charges be laid against some of the country's most senior bankers and some of its most venerated financial institutions – bringing a brutal end to the benign decades-long regime under which feeble regulators only ever dreamed of imposing the mildest of penalties for misbehaviour.

And will Commissioner Hayne maintain his seemingly hardline position on the subject dearest to bankers' hearts – their pay packets.

The sense of dread at the top echelons of the country's banks only deepened this week when shadow Treasurer Chris Bowen pledged that a Labor government would seek to carry out all the recommendations of the banking royal commission, a move which increased the pressure on the Morrison government to follow suit. **Even the dimmest banker realises that the political climate has now changed and they can no longer hope for special indulgence from Canberra.**

Hot seats at top of NAB

The speculation, however, spreads beyond the report itself. One of the hottest subjects of gossip over the sweltering summer has been the **National Australia Bank, and particularly the interlinked fates of its chairman Ken Henry, and its chief executive Andrew Thorburn. After the bruising the Melbourne-based bank suffered during the commission's hearings, surely the NAB must undergo the same complete corporate catharsis that the AMP and the Commonwealth Bank have already undergone.**

People who know Ken Henry report that the NAB chairman is far from enjoying life at present and is openly wondering why he is still in the financial services industry.

It's little wonder. Not only was Henry widely attacked for his contumelious attitude he demonstrated when he was called to give evidence at the royal commission, but **the NAB board was forced to scrap its executive pay structure after suffering the largest protest vote in Australian corporate history against management remuneration at a blue-chip company.**

It's a galling position for Henry, a former head of Treasury and the hero of the financial crisis, to find himself in. Had things worked out otherwise, Henry might have looked forward to capping off his three-year tenure as NAB chairman with a prestigious and high-profile position, such as chairman of the Future Fund.

If Henry is looking for support from his fellow bank chairs, however, he'll be disappointed. **Top bank executives recall with some bitterness that, at a time they were trying to stave off a royal commission, both Henry and NAB's chief customer officer, Mike Baird, were very supportive of the idea.** Indeed, it was **Henry who was the main driver of the letter sent to the Treasurer, which was signed by the chairmen and chief executives of the big four banks, and which conceded that a royal commission was necessary** to restore public faith in the financial system.

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Some have speculated there are several highly-regarded individuals on the NAB board – especially Phil Chronican and Ann Sherry – who could easily step into the chairman's role.

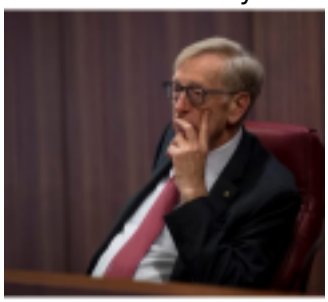
But the counter-argument is that Henry will undoubtedly want to leave the position with dignity. What's more, **there's now a major question mark over how long NAB's chief executive, Andrew Thorburn, will remain in his post.**

Late last year NAB stunned corporate Australia by revealing that Thorburn would take annual leave, return to work ahead of the Hayne royal commission's final report, before then taking a further month of long service leave.

"This is not one of those jobs where you have the luxury of taking long service leave," one of the country's most highly-regarded chairmen noted drily.

Other leading bankers pointed out that Thorburn's decision to take extra leave, at such a sensitive time for the bank, was dangerous, because it could lead to speculation that he lacked the emotional fortitude to handle the pressure.

But the undeniable schadenfreude that top bankers feel as they contemplate the NAB's woes is perhaps helping them to cope with their own mounting dread as they count down the days until Commissioner Hayne's final report is released.



Plenty of cause for anxiety

There's a lot to be anxious about.

Uppermost in bankers' minds is what recommendations will be made about banker remuneration.

In his interim report, Commissioner Hayne made it clear that he believed that the near-universal practice of paying bonuses depending on the size of the revenue they generated was at the root of much of the misbehaviour in the financial sector.

"All the conduct identified and criticised in this report was conduct that provided a financial benefit to the individuals and entities concerned," he said. "If there are exceptions, they are immaterial. **For individuals, the conduct resulted in being paid more. For entities, the conduct resulted in greater profit."**

Faced with this powerful drive for ever-larger profits and bonuses, the internal controls of financial organisations proved impotent. **"The governance and risk management practices of the entities did not prevent the conduct occurring,"** Commissioner Hayne noted.

But the country's top bankers point out that there are different ways for the commissioner to attack the issue of remuneration.

One would be to set quantitative limits on the size of bonuses bankers are allowed to pocket each year. This approach – which would be similar to the "salary cap" that top sportspeople face – is unlikely to have too harmful an effect in banks' domestic operations, because all banks would be subject to the same rules.

But it would create major headaches for those institutions which have major international operations, and which have to compete for talent in major financial markets, such as New York and London. It would be extremely awkward if banks paid their offshore employees bigger bonuses than those given to local staff, particularly if those working offshore are reporting to senior Australian management.

Likely focus on procedural issues

That type of scenario makes it more likely that, instead of setting strict caps on remuneration, Commissioner Hayne will focus on the procedural issues – such as making sure that **banks' boards and remuneration committees use proper diligence when it comes to assessing the size of bonuses for senior executives.**

It's also highly likely that Commissioner Hayne will emphasise tha**t bonuses should not be treated as an automatic entitlement, and that senior bankers should face a real prospect of having their incentive payments cut, or even scrapped entirely, if they fail to meet expectations.**

The financial services industry is also waiting with baited breath to see Commissioner Hayne's recommendations on **"vertical integration"** – where financial institutions design and create financial products which are then distributed to customers through financial advice or sales.

As Commissioner Hayne pointed out in his interim report, **this structure creates an inescapable conflict for financial advisers – between pursuing their own financial interests and meeting their obligation to act in the best interests of their clients. "The choice between interest and duty is resolved, more often than not, in favour of self-interest,"** he observed.

Top bankers argue the issue is extremely complex. They concede it's unrealistic to expect that financial planners who work for an institution that creates products will ignore the obvious financial benefits of flogging the home brand and instead recommend products made by other financial institutions.

But they also point out that, if the large vertically-integrated firms such as AMP are forcibly broken up, it's far from clear that consumers would be better off getting financial advice from small independent financial advisers, who will lack the financial resources to compensate clients for poor financial advice.

Cost of financial advice question

There's also the question of the cost of financial advice, particularly since most people are unwilling to fork out large sums.

In an interview with The Australian Financial Review last month, AMP chairman David Murray said that, if Commissioner Hayne does recommend a ban on the vertically-integrated business model, **"my major concern [would be] how people in Australia will get reliable, affordable financial advice".**

Bankers are also anxious about how Commissioner Hayne will approach the thorny question of mortgage brokers.

There's an almost universal expectation that his final report will recommend that mortgage brokers – who are involved in more than half of all the residential home loans in Australia – should have a "best interests" duty, and that trailing commissions on home loans should be abolished.

A far more difficult issue is whether Commissioner Hayne will require that, in the interests of transparency, **mortgage brokers should charge an upfront fee for their services.**

Some bankers warn that such a recommendation would hugely advantage Commonwealth Bank and Westpac as customers, who are wary of paying the upfront fee, instead flood into their branches. This would further diminish competition in the banking market.

But others argue that such fears are overstated and that many people would still be willing to pay mortgage brokers to assist them to identify the best home loan product for them.

As bankers await the final verdict on their industry they are taking solace in one idea: Commissioner Hayne's year-long and forensic examination of their industry will have persuaded him that bankers, if nothing else, have a deep-rooted, almost Pavlovian, response to incentives.

And Commissioner Hayne will be keeping this in mind as he formulates his final recommendations. He'll know that **if he goes too far in tightening the rules around "responsible lending", say for small business loans, banks will pull back from the market, jeopardising the health of the overall economy.**

BRN Comments

From information that we have it is much more likely that Hayne will cover up the most serious crimes and breaches. We are about to publish an email that was sent to PM Scott Morrison (link now below). There is no doubt his government knows what has been covered up. In addition it is known that Morrison was the most determined to avoid a Royal Commission and once it was announced he made sure its terms and duration would handicap it. Malcolm Turnbull chose Hayne because he was a top class supporter of the system. System supporters have privileged well paid positions in exchange for fierce loyalty. Hayne and Morrison will not extend the Royal Commission unless there is a massive public backlash. We are prepared to petition the Governor General if required.

Criminal charges are appropriate and must be part of any move towards reforming the system. Hayne knows that crimes will not be committed so widely if perpetrators lose their assets and get to think about their actions & behaviour alone in a small room for a decade or so. Of course clients who were ripped off must be restored to the position they would be enjoying if the misconduct had not occurred. We don't actually need that much new regulation. Current codes, laws and standards are not being followed or enforced. Contracts are flawed and being deliberately maladministered by bankers.

We disagree that NAB Chair Ken Henry should be congratulated for his support of the Royal Commission. Henry was smarter and shrewder than his fellow bankers. He understood that an inquiry was inevitable. His aim was to make sure the banks set the terms. When LNP MPs were preparing to cross the floor in support of a powerful inquiry Henry convinced his colleagues and the other bank CEOs that they had to make sure that Turnbull and Morrison got in first. It was a strategic decision. The day before Morrison and Turnbull called it they were still saying it wasn't needed. All that changed in 24 hours was their master's voice.

People also would not require mortgage brokers at all if banks had fair, transparent contracts and presented their products in an easily understood manner. The point is that the products are many, varied and complex to enable the banks to fool people into deals that are not fair or in their interests.

The banks have the power and ability to cause deliberate harm to our economy, businesses and families in retaliation against sensible reforms. **It is now time for bold reforms to bring the power and wealth back to the people.**

What people seem to forget is that the finance system structure is simply one of the numerous methods used by the elite to fleece the population. Financial advisers do not deserve the pay they receive. High pay and bonuses are simply a reward for churning clients and the wealth of the nation. The more dodgy products and services they create and sell the bigger cut they get. The bulk of the siphoning heads upstream to the 0.1%.

NAB has more trouble brewing as their promised remediation program has hit a snag and requires a minor modification to continue in a harmonious, fair and productive way. More about that soon.

What can people do right now?

1. Email Scott Morrison today and tell him you want a longer and stronger banking Royal Commission. Please do it today >> pminvites@pmc.gov.au

2. Register on our BRN website and Facebook page - links below. We need to keep in contact to best work together for the election.

3. Get a Yellow Vest and participate at rallies and get-togethers. This has now become our best way to show both major parties that we are sick of being abused and fleeced. The movement is peaceful and not of the left or right. We want to rescue our democracy, end the the two party corruption and bring the fair go back to our country - more at link below.

4. Let your local MP know you will not support them unless they support policies in the country's interests eg Citizen Initiated Referendum; Proper remediation for victims of bank crimes and misconduct; a Sovereign wealth fund - it is time to look at innovative new policies to give our country hope for a fair and just society. Pollies can be found >> **HERE**



Websites For More Information: Source - AFR - Karen Maley
https://www.afr.com/business/banking-and-finance/hayne-inquiry-heres-what-bankers-dread-will-come-in-next-weeks-final-report-20190124-h1agib
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