



The Consumer Interest: Product Intervention Powers and Fairness

Never Stand Still

Dimity Kingsford Smith,
Professor of Law
Faculty of Law,
University of New South Wales, Sydney, Australia
www.law.unsw.edu.au

OVERVIEW

- **Introduction**
- **Context and Policy Background**
- **Fairness**
- **Features of Product Intervention Powers – a Brief International Comparison**
- **Theoretical and Policy Justifications for Product Intervention Powers**
- **Conclusion**

Introduction

- **The ‘Financial Citizen’: financialisation, restructuring and risk allocation**
- **Extending values in regulating for the financial consumer: ‘fairness’**
- **The Financial System Inquiry and the financial consumer Interest**
- **Extending regulation up the ‘value chain’**

Context and Policy Background

- **Murray: a wider approach to market failure**
- **The capabilities of the financial citizen: literacy and behaviouralism**
- **Fine-tuning disclosure**
- **Improving the quality of advice**
- **A more timely and muscular approach to regulation**
- **Fairness and product governance**

Features of PI Powers and Comparison

- **Standards for intervention**
- **Rulemaking or enforcement action?**
- **In relation to consumer products only?**
- **From product intervention to prohibition: the range of intervention techniques**
- **Financial product governance**
- **Accountability especially for temporary powers**

Theory and Policy and PI Powers

- **Suitability or appropriateness**
- **Financial utility or value for money**
- **Systemic stability**
- **Promoting competition**
- **Integrity**
- **Fairness**

Conclusion

- **Regulatory philosophy different in the retail sector**
- **Evidence that ‘financial citizen’ needs protection**
- **International trend to greater protection**
- **Product intervention *and* financial product governance**
- **Should a breach of financial services law be required?**
- **What evidence of ‘significant’ or ‘substantial damage’?**
- **More timely and muscular approach to supervision**
- **Rule making or decision making? Accountability?**



CLTA – Suitable or Systemic? Addressing Consumer Financial Risk Using Product Intervention Powers

Never Stand Still

Dimity Kingsford Smith,
Professor of Law
Faculty of Law,
University of New South Wales, Sydney, Australia
www.law.unsw.edu.au