



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD1275/2020

**AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION**  
Plaintiff

**COMMONWEALTH BANK OF AUSTRALIA ACN 123 123 124**  
Defendant

### **ORDER**

**JUDGE:** JUSTICE LEE

**DATE OF ORDER:** 16 August 2021

**WHERE MADE:** Sydney

#### **THE COURT ORDERS THAT:**

1. Pursuant to section 12GLB(1)(a) of the *Australian Securities and Investments Commission Act 2001* (Cth), within 30 days of this order, the Commonwealth Bank of Australia publish, at its own expense, a written adverse publicity notice in the terms set out in Annexure A (Written Notice) and, subject to further order, an audio-visual adverse publicity notice in the terms set out in Annexure B (Audio-Visual Notice), according to the following procedure:
  - (a) the Commonwealth Bank of Australia will cause the Written Notice and the Audio-Visual Notice to be published on the following webpages maintained by them:
    - (i) <https://www.commbank.com.au/newsroom.html>;
    - (ii) <https://www.commbank.com.au/>
  - (b) and ensure that each notice:
    - (i) appears immediately upon access by a person to the landing page as a picture tile on the websites and application under the heading, “Notification of Misconduct by CBA”; and
    - (ii) is maintained on the websites 90 days from the date of these orders.



2. By 27 August 2021 the respondent will provide to the Associate to Lee J, in a viewable media format, the proposed Audio-Visual Notice.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

Date that entry is stamped: 16 August 2021

*Sia Lagos*  
Registrar



## ANNEXURE A

### MISCONDUCT NOTICE

#### **Ordered by the Federal Court of Australia**

*The Federal Court of Australia found the Commonwealth Bank of Australia (CBA) provided false or misleading information to its customers.*

On 6 April 2021, Justice Lee of the Federal Court ordered CBA to pay a penalty of \$7 million to the Commonwealth for providing false or misleading information to 1,510 customers with Simple Business and Business Overdraft accounts.

CBA sent statements to the customers which showed that a particular interest rate had been charged. However, the statements were false or misleading because CBA had charged the customers interest at a significantly higher rate – often double the rate referred to in the statement. This happened in 12,119 account statements between 1 December 2014 and 31 March 2018.

By overcharging interest, CBA also broke the terms and conditions of its contracts with the customers.

The customers were overcharged interest totalling \$2,238,554.94.

CBA acknowledges it took longer than it should have to rectify the issue after first being alerted to it by a customer complaint.

The customers have been remediated.

The Court ordered CBA to publish this Misconduct Notice.

#### **Further information**

For further information, visit ASIC's media release here. *[to be hyperlinked]*

See the Court's judgment here. *[to be hyperlinked]*



## ANNEXURE B

The Audio Visual Notice is to be no longer than 60 seconds and meet accessibility requirements including embedded captions. It must also be accompanied by a link to the Written Notice as set out in Annexure A.

The content of the Audio-Visual Notice must include the following:

1. It must start with an image of the Federal Court crest and with the words “Misconduct Notice ordered by the Federal Court of Australia.”
2. It must otherwise contain no or minimal graphics and images.
3. The rest of the audio must consist of the following script:

### MISCONDUCT NOTICE

*“The Federal Court has ordered CBA to publish this Misconduct Notice.*

*On 6 April 2021, the Federal Court ordered the Commonwealth Bank of Australia to pay a penalty of \$7 million to the Commonwealth. This was for CBA’s conduct in providing false or misleading information to 1,510 customers with Simple Business Overdraft and Business Overdraft accounts.*

*CBA sent statements to the customers which showed that a particular interest rate had been charged. However, the statements were false or misleading because CBA had charged the customers interest at a significantly higher rate – often double the rate referred to in the statement. This happened in 12,119 account statements between 1 December 2014 and 31 March 2018. By overcharging interest, CBA also broke the terms and conditions of its contracts with the customers.*

*The customers were overcharged interest totalling \$2,238,554.94.*

*The Commonwealth Bank acknowledges that it took longer than it should have to rectify this issue after first being alerted to it by a customer complaint.*

*CBA has remediated the customers affected by this conduct.*

*This Misconduct Notice has been paid for by CBA pursuant to the Court’s orders.”*