Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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01 March 2023

By email: cp23-5@fca.org.uk

Dear Elizabeth,

Financial Services Consumer Panel response: CP23/5: Debt packagers: feedback on CP21/30 and further consultation on new rules and perimeter guidance

The Financial Services Consumer Panel continues to support FCA's proposal to ban debt packagers from receiving remuneration from debt solution providers. For ease of reference, the Panel's response to CP21/30 is here.

The Panel regrets the delay to introducing the proposed ban. While some firms have changed their model or exited the market, the FCA observes that others have continued to cause harm in the period since the original consultation. While we recognise that the improved evidence base makes the proposal more robust and less prone to challenge, the Panel believes a very rapid confirmation and implementation of these proposals is essential.

Our responses to the questions posed in the consultation are included at Annex A below.

Yours sincerely,

Helen Charlton
Chair, Financial Services Consumer Panel

Annex A – Responses to questions

Q1: Do you have any comments on our consolidated evidence base (including as it is detailed in the CBA)?

No

Q2: Do you think there have been any developments (since 2020, and since our consultation in 2021) which have materially changed the management of the conflict of interest? If so, can you provide evidence of these developments?

No. Indeed there are observations which, taken together, point to worsening harm in the IVA sector as the cost-of-living crisis has progressed:

- Continued very high breakage rates in IVAs, even in new arrangements.
- Increased take up of IVAs, at a time where use of free regulated debt advice and other debt solutions (notably bankruptcies and debt relief orders) has not yet passed pre-pandemic levels

These observations point to continued sale of IVAs to many more customers than they are suitable for. At least some of that is likely to be due to the conflict of interest at the heart of this consultation.

Q3: Do you think there are any developments in the market which have changed the factors informing our decision as to the right intervention to tackle the harm or risk of harm we have seen? If so, can you provide evidence of these developments?

No.

Q4: Do you have any further comments on our amended proposals and the draft Handbook text in Appendix 1 including the new PERG guidance?

In our response to CP21/30 the Panel argued that the referral fee ban should apply equally to non-profit debt advisers and debt management firms. Our concern was that bad actors would alter their corporate structures to circumvent the ban. The FCA's response on this point relies on market monitoring. We continue to believe that there is a risk, exacerbated by:

- The increased number of vulnerable people needing debt advice, including better off cohorts who have never faced problem debt before, will be unfamiliar with the different types on offer. These consumers are more likely to be candidates for remunerative repayment/partial repayment debt solutions.

- Changes in the funding of the advice sector and consequent adjustments to the pattern of advice and solution provision.

Since the FCA continues to propose a more limited scope, the Panel recommends the FCA adopt a more assertive stance than “monitoring” the market. The FCA should draw attention to this issue in its communications to firms about the new Consumer Duty; it should complete multi-firm work on the outcomes consumers receive from non-profit debt advisers; and it should consider a s165 data request after a suitable interval to enable a comprehensive assessment of sector business models, both within and outside the proposed ban.

The Panel supports the new perimeter guidance. Making it clear that referral to firms that provide only one solution could constitute advice to take up that solution is helpful.

Q5: Do you agree with the proposed implementation period of 2 months?
AND
Q6: If you do not agree with the proposed implementation period, what alternative implementation period would you recommend?

The Panel believes the market has had ample warning of impending change and harm needs to be stopped. The FCA should stick with its original one month implementation period.