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

Which?

Sharon Bowles
European Parliament
Bât. Altiero Spinelli, 10G201
60, rue Wiertz
B-1047 Bruxelles

Dear Sharon,

Re. Banning commission for investment advice in MiFID - ECON vote on 26.09.12

As you prepare for the vote on MiFID in the ECON Committee on Wednesday, we strongly urge you to support the amendments which will ban commission for all types of investment advice, and for all advisers. This is already happening in the UK through the Retail Distribution Review (RDR), but we believe an EU-wide ban is necessary to avoid opportunities for firms to circumvent the RDR, help ensure financial stability and to create a level playing field across the EU.

Inappropriate remuneration structures, of which commission payments are a prime example, have been the main drivers behind a succession of mis-selling scandals that have caused significant consumer detriment and cost the industry billions of pounds. The Financial Services Authority (FSA)'s recent review of sales incentives included shocking examples of incentive structures and stated that "the likelihood of mis-selling increases when the value of incentives available to sales staff increases, or when incentives make up a high proportion of a remuneration package for sales staff[1]".

Opponents of a ban claim that disclosure requirements are enough. However, we know from the UK that disclosure alone does not work. A report[2] commissioned by the FSA two years after a UK disclosure document was introduced in 2005, describing the maximum amount an adviser of packaged products is paid for intermediation, concluded that "there is no compelling evidence that it [the document] has brought significant benefits through a reduction in the average level of commission, the dispersion of commissions, provider bias or a change in the use of fees".

Moreover, the FSA's review of sales incentives found that "most firms have incentive schemes that can drive mis-selling and do not have effective systems and controls in place to adequately manage the risks[3]". Disclosure alone will not lead to effective monitoring or risk management. A ban is the most straightforward way of eliminating conflicts of interest and the risk of mis-selling both in terms of implementation and enforcement.

Bad financial advice is disastrous for individual investors and the whole economy, as the last few years have clearly shown. There is now a clear and growing evidence base that inducements which introduce bias lead to poor outcomes for consumers. We therefore urge you to help improve the advice market for investors by banning all advisers from receiving commission and encouraging your colleagues in the ECON Committee to do the same.

Yours sincerely,

Richard Lloyd
Executive Director, Which?

Kay Blair
Vice Chair, Financial Services Consumer Panel

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[1] http://www.fsa.gov.uk/static/pubs/guidance/gc12-11.pdf, p.13.
[2] http://www.fsa.gov.uk/pubs/other/CRAreport_menu.pdf, p.41.
[3] http://www.fsa.gov.uk/static/pubs/guidance/gc12-11.pdf, p.10.