Financial Services Consumer Panel: Discussion Paper on Digital Advertising in Financial Services

EXECUTIVE SUMMARY

The Financial Services Consumer Panel (the Panel) is deeply concerned about potential consumer harm linked to digital advertising of financial services and the use of advertising technology or 'adtech' to create detailed profiles of individual consumers. While these techniques enable personalised, targeted marketing, they also potentially create an environment for discrimination, manipulation, and exploitation. These concerns are seriously heightened by the impact of COVID-19 on the financial situation of UK households.

The Panel commissioned exploratory research to help it better understand digital marketing in the high-cost credit market and the pensions-to-cash market – two of the Panel's priority concerns for 2020/21. This discussion paper sets out our concerns about digital marketing in these markets with reference to the new research evidence. Similar issues seem likely to exist in other financial services markets. This is a complex, fast-moving area and our aim is to stimulate new thinking about how to deliver effective consumer protection around the digital advertising of financial services.

IN THE HIGH-COST CREDIT MARKET, THE PANEL IS CONCERNED THAT DIGITAL ADVERTISING IS TARGETING ALREADY VULNERABLE CONSUMERS

There are 400,000 Google searches per month on high-cost credit keywords and, in January 2020 alone, there were over 10,000 views of YouTube videos featuring high-cost credit. Our main concerns are:

- How firms target consumers for high-cost credit
- Customers drawn to unauthorised clone firms and fake accounts
- Opaque and potentially misleading online enquiry and application processes.

Based on the evidence, the Panel would like to see the FCA:

- Conduct further research on personalised ad-targeting.
- Introduce a requirement for the authorised firm or individual to approve the way in which financial promotions target consumers.
- Use assertive supervision, and have wider conversations with regulated firms and the tech giants' to put pressure on them to monitor their social media platforms more effectively, and take immediate action to remove fake accounts and posts.[1]
- Consider making rules so that risk warnings on social media adverts for high-cost credit (and other high-risk products) are more prominent.

[1] With the launch of the Scam Ad Alert system, the Advertising Standards Authority (ASA), should also be part of these conversations.

- Prioritize its work to update the FCA Register and Directory and explore how to ensure that consumers know with whom they are dealing.
- Continue to invest in regtech that can help it identify – and more importantly take effective action against - cloned firms and online frauds and scams.
- Consider investigating whether online enquiry and application processes comply with FCA Principles for Business.

IN THE PENSIONS-TO-CASH MARKET, THE PANEL IS CONCERNED ABOUT LACK OF TRANSPARENCY AND THE ROLE OF UNREGULATED BROKERS

There are around 25,000 Google searches per month on pensions-to-cash keywords and, in January 2020 alone, over 56,000 views of around 4,000 YouTube videos featuring pensions-to-cash. We are particularly worried about:

- Unregulated brokers operating in this market
- Poor disclosure of regulatory information and risk warnings
- Firms targeting the under-55s.

Based on the evidence, the Panel would like to see the FCA:

- Investigate the digital marketing practices of brokers, where it is within the FCA's power to do so, to identify risks of consumer harm and take effective action before risks crystallise.
- Review the effectiveness of disclosure on firms' websites and their social media content, for example by conducting larger-scale consumer research.
- Investigate the digital marketing practices of brokers who target the under-55s and the regulated firms who pay them for marketing leads to identify risks of consumer harm and take effective action before risks crystallise.

While some of the concerning activities in these two markets may not contravene current FCA rules, the evidence calls into question whether firms are acting in accordance with the FCA's Principles for Business (notably Principle 6 on customers' interests and Principle 7 communications with clients) - especially with regard to potentially vulnerable customers. We have already shared the research and our concerns with the FCA. We aim to use this discussion paper to launch a wider debate with the FCA, as well as other regulators and stakeholders on these issues, and where the FCA's perimeter may be called into question in this space.

INTRODUCTION

Prior to COVID-19, the UK financial services industry was expected to spend £1.9 billion on digital advertising in 2020 in efforts to reach consumers via their desktops and laptops, tablets, mobile phones and other internet-connected devices.[2]

The Financial Services Consumer Panel (the Panel) is deeply concerned about potential consumer harm linked to digital advertising of financial services, along with the use of advertising technology or 'adtech' to create detailed profiles of individual consumers for personalised, targeted marketing but also potentially for discrimination, manipulation, and exploitation.[3] Indeed the Centre for Data Ethics and Innovation has called for greater transparency of ad-targeting including adverts for credit.[4]

The Panel commissioned two exploratory research studies to help it better understand digital marketing in financial services, focusing on high-cost consumer lending and pension encashment services – two of the Panel's priority concerns for 2020/21. This discussion paper sets out our concerns about digital marketing with reference to the new research evidence. Its purpose is to stimulate new thinking about how to deliver effective consumer protection around the digital advertising of financial services.

These concerns are seriously heightened by the coronavirus pandemic. In the first three weeks after lockdown alone, an estimated seven million UK households lost all their earned income or a substantial part of it.[5] There are reports of growing interest among consumers in early access to pensions; fears that consumers will borrow to make up for lost earnings; and frauds and scams that shamelessly seek to exploit the combination of high consumer anxiety and more time spent online.

Achieving effective consumer protection in digital advertising for financial services is complex.

Compared to traditional print and analogue media, digital advertising is fast-paced, dynamic and spans many different platforms run by powerful tech 'giants' like Google, Facebook and Twitter. It also involves several regulators - the Financial Conduct Authority, the Advertising Standards Authority and the Information Commissioner's Office - that may have overlapping or underlapping regulatory perimeters. Memoranda of Understanding exist between these regulators that aim to establish frameworks for co-operation, co-ordination and information-sharing.[6]

- The **Financial Conduct Authority** has detailed rules that govern how regulated financial services firms communicate with consumers based on the

[2] https://www.emarketer.com/content/digital-ad-spending-by-industry-2019
[3] Norwegian Research Council (2020). Out of control: How consumers are exploited by the online advertising industry. Retrieved from https://www.forbrukerradet.no/out-of-control/
[4] https://www.bbc.co.uk/news/technology-51384858
[5] https://www.standardlifefoundation.org.uk/__data/assets/pdf_file/0021/57432/COVID-19-Tracker-April-2020-FINAL.pdf
[6] MOU between the FCA and ICO: https://ico.org.uk/media/about-the-ico/documents/2614342/financial-conduct-authority-ico-mou.pdf; FCA and ASA: https://www.fca.org.uk/publication/mou/mou-fca-asa-2019.pdf; ASA and ICO: https://www.asa.org.uk/resource/mou-asa-ico.html

principle that communications (including financial promotions) should be clear, fair and not misleading.[7]

- The **Advertising Standards Authority** (ASA) is the independent regulator of adverts across all media and sectors, including online. The ASA is solely responsible for financially related broadcast advertising complaints (e.g. TV and radio) and may seek advice from the FCA where needed. The FCA deals with non-broadcast financially related advertising complaints (e.g. print and online) that are unclear, unfair or misleading.[8]
- The **Information Commissioner's Office** (ICO) is the independent data protection regulator tasked with enforcing legislation that includes the General Data Protection Regulation (GDPR). Notably, the GDPR governs how organisations obtain and demonstrate that individuals have given valid consent for their personal data to be collected and processed.

The Panel commissioned new research to better understand the present state of digital marketing in financial services.

The Panel commissioned two exploratory research studies to help it better understand digital marketing in financial services. Both studies focus on high-cost consumer lending and pensions encashment, which are two of the Panel's priority concerns for 2020/21:

- In late 2019, we commissioned a digital experience agency (REO) to carry out in-depth research to understand **the digital customer journey** for high-cost consumer lending and pensions encashment. The research comprised surveys, in-depth qualitative interviews and lab sessions with consumers who had used high-cost loans or looked to cash in their pensions in the previous six months.[9] The lab sessions were used to test consumers' responses to real online adverts using eye tracking and galvanic skin response technology.
- In February 2020, we commissioned an online data analytics agency (Social Chain) to investigate the **online marketing strategies** used by high-cost lenders and cash-to-pensions firms; and to conduct '**social media listening'** to help us understand more about the target audiences for these two products. The work was completed in early March 2020 before the coronavirus lockdown.

This discussion paper sets out potential consumer protection issues highlighted in the research that we feel require further regulatory attention.

These two pieces of research provide evidence of potential consumer protection issues in the digital advertising of financial services that might require further regulatory attention – including more concerted cross-regulatory effort. While some of these concerning activities may not contravene current FCA rules, the evidence

[7] See for example Charles Randell, Chair of the FCA, Speech at the Cambridge Economic Crime Symposium, 04/09/19, www.fca.org.uk/news/speeches/fight-against-skimmers-and-scammers

[8] https://www.asa.org.uk/resource/FCA.html

[9] There were a total of 200 survey respondents and 20 participants in the qualitative interviews and lab sessions, split equally between high-cost credit and pensions-to-cash (i.e. 100 survey respondents and 10 qualitative participants for each product).

calls into question whether firms are acting in the best interests of their customers - including potentially vulnerable customers.

This discussion paper sets out our concerns with reference to the research evidence. Its purpose is to stimulate new thinking about how to deliver effective consumer protection in the digital advertising of financial services. We have already shared the research and our concerns about specific practices and specific firms with the FCA[10] and learned more about the work it is undertaking in this area. **We aim to use this discussion paper to launch a wider debate with the FCA as well as other regulators and stakeholders**.

We look first at the evidence concerning the digital advertising of high-cost credit, before exploring the newer pensions encashment market which developed in response to the new pension freedoms that came into effect in April 2015.

IN THE HIGH-COST CREDIT MARKET, THE PANEL IS CONCERNED THAT DIGITAL ADVERTISING IS TARGETING ALREADY VULNERABLE CONSUMERS

Our research confirms that digital advertising is the main way in which consumers find out about high-cost credit. In the survey of high-cost credit users carried out for the Panel by REO, 42% of respondents said they had found out about their lender from online ads – either on social media or when internet browsing – and 29% through internet searches. Market analysis shows that online searches of terms such as ‘payday loans’ are popular with borrowers of all ages; while younger people aged 16-21 are more likely to discover new brands of loans via social media than TV.[11]

Even though online search interest in high-cost credit has declined since 2014, there are still around **400,000 Google searches per month** on keywords. In the last two years there have been **13 billion ‘impressions’** for the term ‘payday loans’ i.e. adverts or other digital material[12] using ‘payday loans’ have been shown online 13 billion times. The most popular online high-cost lenders also use video content (typically on YouTube which is owned by Alphabet Inc., the parent company of Google) to reach their target audiences. In January 2020 alone, **there were over 10,000 views of around 300 YouTube videos featuring high-cost credit**.[13]

The evidence raises three key concerns around digital advertising and online customer journeys in the high-cost credit market which we explore in detail below:

- How firms target consumers for high-cost credit
- Customers drawn to unauthorised clone firms and fake accounts
- Opaque and potentially misleading online enquiry and application processes.

[10] While the Panel’s general policy is to publish the research it commissions, we have chosen not to publish these two studies as their content is potentially sensitive. In particular, we are concerned that publishing details about potentially harmful practices employed by some firms risks increasing their use. We have shared the details of our concerns with the FCA.
[11] Source: Social Chain’s analysis of Global Web Index.
[12] This includes, for example, information from consumer organisations.
[13] Source: Social Chain’s analysis of Netbase.

How firms target consumers for high-cost credit

Our new evidence raises questions about the huge potential for lenders to target particular groups of consumers based on the personal data that individuals share online and their online activity – such as the things they 'like' and 'follow' and the links they click. Highlighting the prevalence and potential reach of digital adverts, our research shows that:

1. There are up to 4.5 million UK Facebook users categorised as interested in 'loans' (e.g. based on posts they have liked) who are more likely to live in lower-income parts of the UK; and to work in lower-paid occupations.[14]
2. On a single day in March 2020, one high-cost lender was running 430 social media adverts (on Facebook and its subsidiary Instagram) that appeared to be targeting niche audiences such as Polish builders in the UK.[15]
3. High social media consumption by younger borrowers means they are exposed to large volumes of digital advertising for high-cost credit that is available in a few clicks. Nearly half (48%) of high-cost credit users in Gen Z (aged16-21) spend more than three hours on social media in an average day, as do a third (34%) of Gen Y borrowers (aged 22-35).[16]

Even though high-cost lenders may be acting legally in using digital adverts and social media to draw their products to the attention of consumers who may want or need to use them, **we are worried about the potential for targeted digital advertising to exploit and manipulate people who are already vulnerable to harm, in breach of the FCA's Principles for Business 6 and 7**.[17] In turn, this risks undermining the FCA's interventions to try and curb irresponsible lending.

The FCA's Financial Lives survey, for example, highlights that 67% of payday loan borrowers and 49% of short-term instalment borrowers are over-indebted compared with 15% of UK adults.[18] The Panel's new research raises several other concerns:

- In the qualitative interviews and tests of advert imagery, borrowers were attracted by offers of fast loans ("same day payment"; "three-month loan in 10 minutes") specifically targeted at people with poor credit histories ("all credit types welcome"; "poor or bad credit scores"). The qualitative interviews showed how borrowers' exposure to digital ads increased as they were targeted by advertisers based on their digital profile. As one participant commented based on her own experience: **"*As soon as you're even thinking about it, the cookies come for you*.**"[19]
- The Panel's 2018 research casts doubt on whether consumers are ever in a position to give their 'informed consent' to share their data in the first place in

[14] Source: Social Chain's analysis of Facebook Audience Insights.
[15] Source: Social Chain's analysis of Facebook Ad Library.
[16] Source: Social Chain's analysis of Global Web Index.
[17] Principle for Business 6 (customers' interests) states that 'A firm must pay due regard to the interests of its customers and treat them fairly'. Principle 7 (communications with clients) states that 'A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading'. Source https://www.handbook.fca.org.uk/handbook/PRIN/2/?view=chapter
[18] www.fca.org.uk/data/consumer-credit-high-cost-short-term-credit-lending-data-jan-2019
[19] Source: Qualitative interviews with 10 high-cost credit users conducted by REO.

ways that enable this targeting.[20] We are concerned that this practice in the high cost credit sector risks undermining the action the FCA has already taken to mitigate consumer harm caused by poor affordability assessments and repeat lending[21].

- Eight of the 10 borrowers who were interviewed for the Panel's research regularly used high-cost credit to bridge the gap between paydays, help pay other debts (including gambling debts), or to fund gambling. Their interview data highlights **cycles of repeat online borrowing through familiar interfaces that make loans available in a few clicks with minimal friction.**
- Finally, debt consolidation loan brokers appeared to be using keywords including 'wiping debt' and 'gambling debt' to target their adverts.[22]

Based on this evidence, the Panel would like to see the FCA:

- Conduct further research on personalised ad-targeting in the high-cost credit market to identify whether consumers are experiencing harm and, if they are, what action should be taken.
- Introduce a requirement for authorised firms and individuals to approve the way in which financial promotions target consumers, and not just the financial promotion itself.

<u>Customers drawn to unauthorised cloned firms and fake accounts.</u>

The FCA is spending significant sums of money on its own digital adverts to counteract online investment frauds and scams – over £180,000 in February and March 2020 alone.[23]

Our evidence also highlights the risk to consumers of inadvertently using unauthorised cloned firms such as OMACL Loans Limited and falling victim to fraud.[24] Consumers looking for credit are also at risk from fake social media accounts (e.g. on Reddit, Twitter and Facebook) that try to entice people to contact lenders that the account owners claim to have used themselves, which are very likely to be scams. This example is from Facebook:

[20] Notably, the European Data Protection Board published guidelines in May 2020 clarifying that consent is not freely given if a service is predicated on the consumer consenting to their data being processed; and explicitly prohibiting cookie walls (i.e. a provider can't deny access to a service if the consumer does not consent to the cookies on that provider's website being used).
[21] See for example www.fca.org.uk/publication/correspondence/dear-ceo-affordability-high-cost-short-term-credit-loans.pdf
[22] Source: Social Chain's analysis of Google Ads History.
[23] https://www.telegraph.co.uk/investing/news/city-watchdog-spends-180k-fighting-rogue-google-investment-adverts/
[24] https://www.fca.org.uk/news/warnings/omacl-loans-ltd-clone-authorised-firm

These fake accounts target people using keywords such as popular loan brands they follow or by 'hijacking' competitions and giveaways run by legitimate lenders. They often use empathetic language to gain people's trust, such as warning against scams. Reddit seemed more active in removing fake accounts than other platforms.[25] In addition, the research identified that some legitimate firms have many different trading names (in one case around 35) which raises the question of whether consumers can ever be sure who they are transacting with.

In fact, the qualitative research carried out for us by REO suggested **that it was rare for participants who used high-cost credit to carry out much 'risk assessment' when they responded to digital adverts**. As a result, they might end up using lenders they hadn't heard of before. If they checked lenders out at all, it tended to be on the review site Trustpilot, about which there are concerns over the accuracy and veracity of reviews.[26] Worryingly, some participants used the secure URL padlock on websites as a signal that the firm and the website were legitimate and trustworthy – when in fact it only indicates that the online session is secure and encrypted.

There was very little awareness among participants about the Financial Conduct Authority or what it meant for firms to be FCA regulated. In any case, this information was often 'below the fold' (i.e. you have to scroll down the webpage to find it) and hard to spot – as was information about whether the firm was a direct lender or a loan broker. None of the participants mentioned the FCA Register as a way of checking firms' credibility.

"It's like apply now, ask questions later."

"Why does it [FCA regulation] even matter? Unless you understand the financial industry then what does it mean?"
(Qualitative interviews with short term credit users)

Based on this evidence, the Panel would like to see the FCA:

- Use assertive supervision to ensure regulated firms monitor their social media accounts and have wider conversations with the 'tech giants' to put pressure on them to monitor their social media platforms more effectively, and take immediate action to remove fake accounts and posts.[27] Aligned to the government's online harm agenda,[28] for example, the FCA could convene a cross-sector working group (if one does not already exist) to explore how best to combat online frauds and scams in financial services and to promote good practice.[29]

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[25] Source: Social Chain's analysis of Netbase.
[26] See for example https://www.seotraininglondon.org/can-you-trust-trustpilot/
[27] With the launch of the Scam Ad Alert system, the Advertising Standards Authority (ASA), should also be part of these conversations.
[28] See for example: https://www.gov.uk/government/consultations/online-harms-white-paper/public-feedback/online-harms-white-paper-initial-consultation-response#next-steps
[29] Akin to the Government-led Project Bloom to tackle pensions scams https://www.gov.uk/government/news/government-warning-arm-yourself-with-the-facts-dont-lose-your-pension-to-scammers

- Consider making rules so that risk warnings on social media adverts for high-cost credit (and other high-risk products) are more prominent.
- Prioritize its work to update the FCA Register and Directory and explore how to ensure that consumers know with whom they are dealing e.g. by limiting the number of trading names allowed under the same permission.
- Continue to invest in regtech that can help it identify – and more importantly take effective action against - cloned firms and online frauds and scams.

Because the Panel is concerned more generally about consumer understanding of the information that firms must disclose around regulation, consumer protection and risk warnings, it has made '*Consumer understanding of disclosures'* one of its priority topics for 2020/21.

Opaque and potentially misleading online enquiry and application processes

In the lab sessions with high-cost credit users conducted for the Panel by REO, participants were asked about their impressions of online ads and websites for several high-cost lenders. Like the rest of the high-cost credit customer journey, online loan applications are deliberately designed to be quick and easy to complete – and hard to abandon:

- Online application forms viewed in the sessions were typically positioned 'above the fold' i.e. when a webpage loads the content is visible without scrolling. In sharp contrast, participants had to scroll down 'below the fold' (which they only tended to do when prompted) to see statutory information (in much smaller font size) such as how the firm is regulated, the costs of lending, whether it was a direct lender or loan broker.
- Breaking the application form into several sections meant that once participants had filled out the first few sections, they felt invested in the process and more likely to see it through to completion.
- In the case of one lender's website, participants thought they were only applying for a quote but were instead taken through a full application – by which time they were invested in the process.
- Sliders and large clickable buttons make it easy for borrowers to input information – indeed some participants looked out for sliders when they browsed for loans.

***"They always put the important stuff in small writing*"**
(Qualitative interviews with short term credit users)

The lab sessions with participants looking to cash in their pensions found similar issues around online enquiry and application processes – with the added issue of online enquiries swiftly prompting a sales call-back that participants hadn't expected.

Based on this evidence, the Panel would like to see the FCA:

- Consider investigating whether online enquiry and application processes for high-cost credit, pensions-to-cash services and other high-risk products and services comply with Principles for Business 6 (customers' interests) and 7 (communications with clients).

IN THE PENSIONS-TO-CASH MARKET, THE PANEL IS CONCERNED ABOUT LACK OF TRANSPARENCY AND THE ROLE OF UNREGULATED BROKERS

Compared to the UK's well-established high-cost credit market, the pensions-to-cash market is still in its infancy, stimulated by the new pension freedoms that came into effect in April 2015. These pension freedoms mean that people with defined contribution pensions now have greater access to their pension savings and can choose from a range of decumulation options rather than having to buy an annuity.[30]

Our research provides valuable insights into digital advertising in this new market. It shows that a wide range of firms use digital and social media adverts to encourage people to cash in their pensions, but there is also information online about the potential risks of doing so from organisations like The Pensions Advisory Service; Pension Wise; the Money and Pensions Service; Which?; and the money pages of online broadsheet newspapers. In addition, there were examples of 'retirement guides' for people in their 50s advertised online by large regulated firms.

In terms of online search activity: since 2016 there have been almost 400 domains competing on the most popular pensions-to-cash keywords on Google. There are around 25,000 Google searches per month and, as the figure below shows, in March 2020 the two most popular search terms used by consumers included the word 'calculator' - which means that domains advertising calculators are likely to get more web traffic.[31]

Keyword	Volume per month	Clicks
pension drawdown calculator	5,200	8,276
drawdown calculator	4,000	6,138
pension drawdown	2,900	3,084
best pension plan	2,800	2,900
drawdown pension	2,200	2,423
best private pension	1,800	2,150
draw down pension	1,200	1,379
cashing in pension at 55	1,000	727
pension lump sum	800	797
can i cash in my pension	800	622
pension lump sum tax calculator	500	560
uncrystallised funds pension lump sum	500	437
cash in pension	500	391
crystallised pension	350	259
best performing drawdown pension providers	350	444

In the qualitative interviews carried out for the Panel by REO, participants who wanted to cash in their pensions were generally looking for information to help them make a decision (which might include a calculator) rather than seeking an immediate solution. The consumer survey showed that two-thirds of respondents (65%) had been researching the issue for a month or more – in some cases unable to find the information they wanted to answer the questions they had.

In terms of digital adverts: in the last two years there have been around 0.6 billion 'impressions' for the term 'pension drawdown' (i.e. adverts or other digital material

[30] See for example https://www.pensionsadvisoryservice.org.uk/about-pensions/pension-reform/freedom-and-choice
[31] Source: Social Chain's analysis of AhRefs.

using the term ‘pension drawdown’ have been shown online 0.6 billion times). As in the high-cost credit market, firms offering pension-to-cash products and services also use YouTube to reach their target audiences. In January 2020 alone, **there were over 56,000 views of around 4,000 YouTube videos from firms operating in the pensions-to-cash market.**[32]

The evidence raises three key concerns around digital advertising and online customer journeys in the pensions-to-cash market which we explore in detail below:

- Unregulated brokers operating in the pensions-to-cash market
- Poor disclosure of regulatory information and risk warnings
- Firms targeting the under-55s.

Unregulated brokers operating in the pensions-to-cash market

The market analysis carried out for the Panel by Social Chain shows that **unregulated brokers** are a significant force in the pensions-to-cash sector.[33] These are typically marketing websites that are not required to be regulated by the FCA, which act as introducers for FCA-regulated firms that provide financial advice on accessing pension savings. Consumers provide the broker with their personal details by filling in an online form.

The Panel is concerned that broker websites provide very little information about their service, which makes it difficult to see how consumers can ever make an informed choice about data sharing or whether to proceed with an enquiry. Brokers do not make it sufficiently clear to consumers on their websites whether they are FCA authorised and regulated. If they are not FCA-regulated, there is no information about what consumer protections (if any) exist for consumers who use their service. Broker websites are also not clear about which firms they act as introducers for; whether those firms are FCA regulated; how brokers are paid or how much they are paid.

Based on this evidence, the Panel would like to see the FCA:

- Investigate the digital marketing practices and online operations of brokers working in the pensions-to-cash market, where it is within the FCA’s remit to do so, to identify risks of consumer harm and take effective action before risks crystallise.

Poor disclosure of regulatory information and risk warnings

In addition to concerns about the information available to consumers on the websites of brokers that are not regulated by the FCA, **the evidence also suggests room for improvement in disclosure by regulated firms**.

The qualitative research carried out for the Panel by REO indicated there was more awareness of the FCA among participants looking to cash their pensions than among high-cost credit users. That said, it was not generally something pensions-to-cash participants checked unless it was on the pension website’s homepage (which

[32] Source: Social Chain’s analysis of Netbase.
[33] Source: Social Chain’s analysis of AhRefs.

it was in one case). However, mention of regulation on websites was taken as a mark of trustworthiness and participants felt misled by brokers and lead generators that were not regulated by the FCA but nonetheless advertised 'fully regulated schemes' on their websites.

Like loan application forms on high-cost credit websites, online forms for pensions-to-cash that were viewed by participants in the lab sessions were typically positioned 'above the fold' i.e. above the border when a webpage loads so that the content is visible without scrolling. Participants had to scroll down 'below the fold' (which they only tended to do when prompted) to see statutory information (in much smaller font size) such as how the firm is regulated and risk warnings.

Based on this evidence, the Panel would like to see the FCA:

- Review the effectiveness of disclosure on firms' websites and their social media content, for example by conducting larger-scale consumer research.

Firms targeting the under-55s

Generally, 55 is the minimum age at which consumers can access their defined contribution pensions under the new pension freedoms. Unless certain conditions apply, consumers who access their pension savings before age 55 can be charged up to 55% tax on the pension savings they withdraw, for unauthorised early access.

The Panel is concerned that brokers are targeting the under-55s to cash their pensions without sufficiently flagging the potential tax implications. One broker's paid-for advert on Google during March 2020 said '*Unlock cash from your pension – before age 55*'[34] with no information on its website about the risk of tax charges. Another broker's website advertises that consumers can '*cash any pension under 55'* with information about tax charges only provided 'below the fold' and in small print. This is worrying when it has also been reported that one in six 45-54-year-old pension savers said they would be interested in an offer from a company that claimed it could help them get early access to their pension.[35] The Panel is further concerned about enticing language and imagery used in digital adverts that solely focus on 'easy' access to cash.

Based on this evidence, the Panel would like to see the FCA:

- Investigate the digital marketing practices of brokers who target the under-55s and the regulated firms who pay them for marketing leads to identify risks of consumer harm and take effective action before risks crystallise.

CONCLUSIONS

Achieving effective consumer protection in digital advertising for financial services is complex because it is fast-paced and dynamic; spans multiple online platforms; is overseen by several different regulators; and involves firms that are FCA regulated and others that are not. It therefore requires an agile, co-ordinated, and robust

[34] Source: Social Chain's analysis of AhRefs.
[35] https://www.fca.org.uk/news/press-releases/5m-pension-savers-could-put-retirement-savings-risk-scammers

response to identify and take effective action against risks to consumers before they crystallise and result in significant consumer detriment.

Using evidence from two new research studies commissioned by the Panel, this discussion paper aims to stimulate fresh thinking about how to deliver effective consumer protection in the digital advertising of financial services. It sets out our concerns about digital advertising and the online customer journey in two very different markets: high-cost credit and pensions-to-cash. It seems likely however that similar issues exist in other financial services markets.

While some of these concerning activities may not contravene current FCA rules, the evidence calls into question whether firms are acting in the best interests of their customers - including potentially vulnerable customers. We have already shared the research and our concerns with the FCA. We aim to use this discussion paper to launch a wider debate with the FCA as well as other regulators and stakeholders on these issues, and where the FCA's perimeter may be called into question in this space.