Policy Consumer Credit,
Financial Conduct Authority,
12 Endeavour Square,
London E20 1JN

6 December 2019

Dear Sir/Madam,

SBPP RESPONSE TO CP19/28: MOTOR FINANCE DISCRETIONARY COMMISSION MODELS AND CONSUMER CREDIT COMMISSION DISCLOSURE[1]

The Panel is pleased to respond to this consultation, and in particular the elements relating to motor finance commission models. We are very much encouraged that the FCA has thoroughly investigated the issues in the motor finance market that we have raised for some time, and we were particularly interested that your research has confirmed our concerns around consumer detriment relating to the difference in charges model. We encouraged you to move as quickly as is practical to implement remedies in this market, given the scale of the potential detriment to individual customers.

We are broadly supportive of the of the FCA proposals in this area. Wide broker discretion to set interest rates at the point of sale has clear conflicts of interest that without strong mitigation can lead to consumer detriment.

We have the following comments on specific questions:

Q1: 'Do you agree with our proposed ban on discretionary commission models in the motor finance market?'

In relation to the underlying assumptions of the paper, it looks at both new and used car finance combined. This is potentially misleading as most new car finance is arranged on fixed APR, often subvented, finance contracts. The paper cites 48% of the market using discretionary commission schemes (point 106, p33). This downplays the extent of the use of discretionary commission schemes within the used car market and therefore the magnitude of change required. In addition, the cost benefit-analysis (CBA) uses a simplifying assumption that the loans in the sample used to calculate the customer betterment all run full term (point 10, annex 3, p 43) – industry data would suggest the average duration of a motor finance contract before settlement to be circa 28 months.

We believe the FCA needs to consider more fully the different types of broker operating in the market. The consultation does not consider in any detail the different types of credit broker operating within the used car market, and the roles they play within the distribution chain. There are broadly three types of broker – dealer broker, internet broker and what may be termed secondary brokers (intermediaries broking the products of lenders to dealer brokers). The proposed rules have the potential to limit and potentially disadvantage both internet and secondary brokers from operating pricing models that currently mitigate most if not all the harm associated with discretionary commission models. The internet and secondary brokerage model accounts for around 20% of the used car finance market, and this proportion is growing year-on-year. Moreover, many more consumers are using these brokered services to source both the vehicle and the finance. We also wish to point out that these brokers are typically the

[1] https://www.fca.org.uk/publication/consultation/cp19-28.pdf

only route to market for more specialist lenders and are therefore important in helping certain customer demographics access motor finance.

Q2: Do you agree with a three-month implementation period?

We have concerns that a three-month implementation period, whilst achievable for most lenders, will deliver a less flexible operating model at the point of sale in the short to medium term. Early indications are that in the absence of more time to make comprehensive system changes some lenders are looking to fix customer rates to one single APR per dealer entity. This APR will be set in negotiation with the retailer who will be minded to protect commission income, especially if a waterbed effect cannot be achieved, and will hence be unlikely to deliver the net gains the CBA is expecting. A move to risk based pricing set by lenders with price comparison at the point of sale is not a model the prime motor finance industry can adopt in the short term due to IT deficiencies and the lack of platforms to enable comparison across the lenders. A model similar to that implemented in Australia by the ASIC that banned increasing DIC but allowed for controlled APR discounting by a credit broker through commission offset may have led to increased flexibility for the consumer on rate, especially if oversight expectations on lenders and secondary brokers were strengthened and we encourage the FCA not to rule out this option.

Q6: Do you agree with our analysis of the costs and benefits of the proposals?

See response to question 1 above in relation to the assumption of loans running to full term and question 2 relating to single APRs.

Feedback and consultation

We urge the FCA to encourage dialogue with trade bodies (eg FLA/NFDA) regarding emerging commission models, perhaps helping support a traffic light report highlighting what good and bad remuneration models could look like. It would be helpful if the FCA could be more directional on the type of scheme that would be permissible as well as banning the existing practices. There is a great deal of income at stake for both dealers and brokers and there is the possibility that some will seek to comply with the letter but not the spirit of the rulings in order to protect vital income to their business. We would also encourage the regulator to provide feedback on proposed models, potentially via the consultation process, in order to provide further clarity.

We would be happy to discuss any of these points further.

Yours faithfully,

[Signed]

Marlene Shiels
Chair, FCA Smaller Business Practitioner Panel