



Inside FCA Podcast: Understanding the Consumer Duty products and services outcome

OI: Hello and welcome to the Inside FCA Podcast, I'm Ozge Ibrahim and today I'll be speaking with the FCA's Manager of Consumer Policy Outcomes, Richard Wilson, about the products and services outcome in the new Consumer Duty. The FCA says it wants all products and services for consumers to be fit for purpose and designed to meet the needs, characteristics and objectives of a target group of customers and distributed appropriately. I'll be asking Richard to explain the detail behind this part of the Consumer Duty ahead of its implementation in July 2023.

Hello and welcome, Richard. Can you explain what the FCA means by the products and services outcome and how it fits into the Consumer Duty?

RW: Yeah, well, simply put, we want to see products and services designed to meet the needs of a clearly defined target market and then we want firms to monitor and see what happens in practice. Firstly, to ensure that products and services work as expected and then secondly, to ensure that products or services are being sold to the right people, i.e., only to the people in that clearly defined target market. If firms do this, so they put in place good governance and oversight of their products and services, and then they act on what they see in any problems then this will be a big step towards our overall objective of delivering good consumer outcomes.

OI: And how do the requirements relate to existing product governance requirements?

RW: So, that's an important point. In some sectors, rules on product governance are not new, sectors such as investments, insurance and funeral plans are already subject to rules on product governance. Where a firm must currently comply with those rules it should continue to do so because those rules are broadly equivalent, and the outcome should be the same.

However, firms in these sectors do still need to consider if the Duty applies to any additional requirements to what they're doing. One example of this, for instance, is that the new Consumer Duty rules apply to all products and services whenever they were launched at whatever time or date. Whereas for some sectors, the existing rules only apply to products that were created or adapted after a certain point in time.

OI: And you spoke about the sectors, can you tell me exactly who it applies to?

RW: So, the new Consumer Duty rules apply across all sectors where there is a retail customer. So, to all firms in a distribution chain that reaches a retail customer and that's just all set out in the scope chapter of our guidance, how the scope of the Consumer Duty works. But it does overlap with some existing product governance rules, that's the prod rules in our rulebook. And so, where firms are already. Following prod rules on product governance and distribution, then they should continue to follow those rules.

OI: And do the rules you're talking about apply equally to products and services?

RW: Yes, they do and that's one of the things that we're really keen to achieve with the new Consumer Duty, because I think in the past has perhaps been thinking that these kind of governance and oversight only really apply to products, you know, traditional sort of products. Whereas, actually we want it to apply to services as well so, that can obviously include things like advice services, payment services, but also kind of just the ordinary sort of distribution services that firms are doing. So, they're thinking about a distributed firm will often be a manufacturer of their own distribution service as well as a distributor of a product that they are selling. So, then, for instance, they'll need to think about the target market for their advice or the broking or the distribution service that they are offering.

OI: Thank you. And when firms are identifying their target market, how granular do they need to be?

RW: So, the rules require the target market to find a sufficiently granular level. As a rule of thumb, I would say the target market should be defined in enough detail to avoid including any groups of customers who would suffer harm from that product or service. So, what we don't want to see is vague or very broadly defined target markets that might include groups who actually wouldn't benefit from the product or service.

OI: What factors should they consider when identifying the target market?

RW: So, firms should really have a good idea of the kinds of consumers who they think will benefit from their product or service when they go about designing it and developing it. But they will need to think about the design and features of that product or service, for instance, whether any features or exclusions which mean a product isn't suited to some customers, then they should obviously reflect that in their target market. Firms should also think about risks and complexity of the product or service so, the simpler and less risky a product or service is, the wider the target market is likely to be and obviously for some products or services, the target market will be very, very broad. But for a more risky or complex product, it might only be appropriate for a much narrower group so, a group who can understand the risks and the complex features of that product and really make use of and benefit from that product and all its features.

OI: And then how should firms test if the target market has been identified appropriately?

RW: Well, all aspects of the Duty we expect firms to monitor outcomes for their customers and to consider if groups of customers are getting poor outcomes. So, if firms identify issues affecting a group of customers in the target market, this may indicate that they've not really correctly defined that target market and they may want to change that and therefore change their distribution strategy as well. As on all aspects of the products and services outcome there is a lot more information in chapter six of our finalised guidance on the Consumer Duty, which is published on our website.

OI: Thank you. And what consideration needs to be given to customers with characteristics of vulnerability?

RW: Customers may move in or out of vulnerable circumstances at any stage, for instance, due to a change in their health or to a bereavement or many other reasons. Therefore, a firm's target market is always likely to have and to include some vulnerable customers. So, under this outcome, the customer - the products and services outcome - we aren't looking for firms to review individual customers or to track their potential vulnerability. Instead, what we really want is for firms to consider whether their product or service has features that could risk harm for any group of customers, including those with characteristics of vulnerability. If it does, we want the firm to consider how best to mitigate those risks. So, again, in 2021, we published guidance for firms on their fair treatment of vulnerable customers, that's on our website as well. And if firms want more information on the characteristics of vulnerability and the steps they should take, this is a really good place to look.

OI: And what expectations do you have for firms to test their products and services?

RW: So, firms must design products and services to meet their target market for a range of reasons, but particularly to avoid causing foreseeable harm and to avoid adversely affecting groups of customers, including those with vulnerable characteristics. And to do this, our rules require firms to appropriately test their products and services. What's appropriate will vary depending on the product or service, depending on the circumstances and there is more guidance on this, as you'd expect in chapter 6 of our Finalised Guidance. In all cases though, it's likely to mean thinking through things such as, how the needs and situations of consumers in the target market are likely to change. So, how their needs, their circumstances are going to be changing over time and then for some products it can be quite complex, quantitative testing for instance, looking at how investments might perform in different economic scenarios. So, it's going to be different in different situations and again, looking at the Finalised Guidance will give firms extra, extra information on our expectations.

OI: And what needs to happen by April 2023?

RW: Well, by the end of April, we want manufacturer firms to have reviewed any product or service already on the market and which will continue to be sold after July 2023. So, that's a milestone we've put in place to make sure firms can be ready for the July 2023 deadline for applying the Consumer Duty to all open and new products and services. And this milestone, April milestone, is important for two reasons.

First, it will allow manufacturers to provide all the relevant information they need to, to the distributors so that the distributor firms can, in turn, meet all their own requirements under the rules.

So obviously, you know, distributors will need to be looking at information about the products and services they are distributing to be able to do their own reviews and comply with the Consumer Duty rules. And the second reason why we have that April milestone in there is it will provide time for the manufacturer to make any necessary changes to those products and services by the time the rules come into force in July. So, obviously we want them to have completed their reviews, but then to give themselves some time to take action to mitigate any of the issues that they've seen, and you know, they may need to make changes to their products, they may need to make changes to their distribution arrangements.

OI: And do you have more information on what reviews the manufacturers and distributors need to undertake?

RW: Yeah so, our rules have specific requirements for both manufacturers and distributors. So, starting with the manufacturers, they must regularly review whether their product or service meets the identified needs of the target market, firstly. Secondly, whether the distribution strategy remains appropriate for the target market. And then thirdly, whether the product or service has actually been distributed to those customers in the target market correctly. Then for distributors, they must do their own regular review and consider whether their distribution arrangements are appropriate and up-to-date, and whether products and services have actually been distributed to customers in the target market. So then, both sides need to do their own reviews and own work to make sure they're meeting the products and services outcome.

OI: And you've said that they need to do them regularly. How regularly do the reviews need to happen?

RW: Well, as with lots of things in our rules and guidance, we haven't been prescriptive because we recognised there's a whole range of different scenarios out there so, the rules do not stipulate the frequency of these reviews. Instead, when deciding the appropriate time for the review, firms need to consider such factors, such as the nature and complexity of the product and service, the nature of the customer base, any indication of customer harm. So, for a long-term project that, you know, it may be appropriate to have a longer review, less frequent reviews, whereas a product, where risks are changing all the time, it may be appropriate to have more frequent reviews.

OI: And more information should be shared for these reviews?

RW: Well, there is a need for firms to share information to support these reviews. In particular, distributor firms must provide information to support the reviews that the manufacturers are doing. So, in general, we do not expect distributor firms to share information without being asked though, as the information is to support a manufacturer view of a product or service, we expect the manufacturer firm to consider what information would be helpful and to take reasonable steps to gather it. For example, a manufacturer could consider focus groups, including a few distributor firms, or sending out a survey to distributors to get the information they need. So, the aim is to help ensure that the information requests are manageable and focussed on the issues the manufacturer firm wishes to cover.

We do not expect firms to share information about individual customers, obviously, if that conflicts with, particularly if that conflicts with data protection laws but firms should consider providing anonymized or aggregated information instead to avoid that, of course. There's lots more discussion of this in our Guidance about what's required and things to consider when sharing information. And also, we have some guidance in there about the kind of things the manufacturers could ask of distributors to help them. So, they could ask things like, have any issues been identified in relation to the target market assessment? Have any issues been identified by customers with characteristics of vulnerability? So there's a range of things in our guidance there to help firms think about this.

OI: And what happens if issues are identified in a review?

RW: So, the reason we want firms to conduct these regular reviews is obviously because we want them to take action where they see problems so that they can make sure they are delivering good outcomes for retail consumers. So, if firms do identify issues, they must take appropriate mitigatory action that will prevent further harm from occurring. Kinds of actions that firms might want to take might vary, for example, firms could make changes to the product or service to address the issue. Firms could provide additional information to its distributors or indeed directly to customers to try and mitigate the issue or they could just improve the way the information is communicated to make it clearer. And obviously, there's a link here to the consumer understanding outcome and the importance of good, clear communications.

The firm may also want to amend the distribution strategy before making any further sales. They may identify, for instance, that some of their distribution arrangements aren't working and aren't ensuring that the product is reaching the right people. If harm has already occurred, then of course the firm will need to think about that and how to put that situation right for those for those customers as well. So, it's thinking ahead about how to stop further harm occurring or to make sure that the distribution arrangements are working properly, but also thinking about what's happened and how to sort that out as well.

OI: And finally, Richard, how will the FCA be assessing and monitoring firms plans for the products and services outcome?

RW: So, in the Guidance, we have set out some key questions we think firms could ask themselves to see if they're complying with the rules. These are also though the likely questions that we could pose, that supervisors could pose to the firms that they supervise. So, the kind of questions we might ask are: how has the firm specified the target market of its products and services, to the level of granularity necessary, which is obviously something we've discussed earlier.

How has the firm satisfied itself that its products and services are well designed to meet the needs of customers in the target market and that they perform as expected? Or how is the firm monitoring the products and services are being correctly distributed to the target market? There's a longer list in the Guidance.

So, those are the kind of things that we might be asking firms. We're currently looking at firm's implementation plans, and we hope to be giving firms feedback on what we've seen soon, and we'll hope to publish something on our website as well. So, and we want to do that obviously because we want to help firms understand what they need to do and understand their expectations so that they can get on and deliver the Consumer Duty well and to make sure they are delivering those good outcomes for consumers.

OI: Thanks for your time today, Richard. You can find out more about the Consumer Duty on our website and in our new series of dedicated podcasts on the subject. I'm Ozge Ibrahim, thank you for listening and join us again soon on the Inside FCA podcast.

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