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By email: DRCF@ofcom.org.uk

Dear Sir / Madam,

Financial Services Consumer Panel response to Digital Regulation Cooperation Forum workplan for 2021/22

The Financial Services Consumer Panel (the Panel) is an independent statutory body. We represent the interests of individual and small business consumers in the development of policy and regulation of financial services in the UK.

We welcome the Digital Regulation Cooperation Forum's (DRCF) remit to bring about "a step-change in coordination of regulation across digital and online services" and are pleased that the FCA joined the DRCF as a full member in April 2021.

The Panel believes that financial services consumers (individuals and SMEs) should be protected from new and emerging harms, which requires regulation to keep up with technological change and regulators to act swiftly. The Panel supports innovation in financial services insofar as it benefits consumers; new products and services should be appropriate and come with suitable protections. Ultimately, we believe financial services firms should be subject to a duty to act in the best interests of their customers.

Among the Panel's concerns where it believes the DRCF could bring about positive change are:

- Challenges such as [algorithmic bias](#) which risks excluding and penalising consumers with protected characteristics, or who are outside the defined risk criteria; and data privacy, where it is difficult or impossible for consumers to know how their data might be interpreted, used or sold and the potential consequences. The [Panel's research](#) shows that even supposedly 'tech savvy' consumers don't really understand the value of their data and even those that read the terms and conditions are usually none the wiser having done so.
- The risks of marginalisation and exclusion, where financial services firms can drive consumers to digital channels and leave some behind altogether or subject to inferior service or terms. Consumer data is also increasingly used as a condition of access to financial services, [housing](#) and other essentials, meaning that consumers may have no choice but to share their data or forgo the service. The impact of this digital conditionality will fall most heavily on people who are already disadvantaged.
- Cynically [targeted digital financial services advertising](#) which is a long-standing issue that has become more pressing as consumers face new or [heightened vulnerabilities](#)¹ as a result of the pandemic. This means that when markets begin to recover, there is an even greater risk of consumers using unsuitable products to get out of debt or investing in products that are unsuitable for them.

¹ <https://www.fca.org.uk/publications/research/financial-lives-2020-survey-impact-coronavirus#lf-chapter-id-the-impacts-and-experience-of-covid-19-consumers-with-characteristics-of-vulnerability>

- [Unregulated brokers](#) operating in markets that target consumers in potentially vulnerable situations, such as pension encashment and debt solutions, where the Panel has found worrying practices and poor disclosure of regulatory information and risk warnings.
- Ensuring that providers build for safety, in particular by protecting against cyber risks, that they educate consumers and provide easily accessible, speedy means by which consumers can seek redress in the event of fraud.
- The fact that product terms and conditions are not a useful basis for informed consent in a digital age where transactions are increasingly frictionless at the point of subscription, purchase and/or payment. They need a radical overhaul to bring them in line with advances in technology.
- Considering whether it may sometimes be appropriate for providers to be required to add friction to a transaction to validate financial services customers' understanding of a major term or condition, or to create a pause for consideration.

The Panel is concerned that consumers will continue to be exposed to significant harm for some considerable time as regulation plays catch up to poor practice, technological change and financial innovation. We look forward to engagement with the DRCF to explore how these issues can be addressed, acknowledging that it is not a decision-making body and does not provide formal advice or direction to members. In this context, we would welcome further information on the levers that the DRCF can use to bring about positive change in this complex environment and how it relates to other initiatives such as the Smart Data strategy. We also look forward to engaging with the new Digital Markets Unit on these issues as relevant, both in its shadow form and once it has formal powers.

The Panel encourages the DRCF to set clear outcomes and milestones for each of its objectives, which focus on practical ways to improve the regulation of digital and online services so that they work in the best interests of consumers. To do this, the DRCF should proactively engage with a wide range of consumer advocates and organisations, including the Panel.

Yours faithfully,

Wanda Goldwag
Chair, Financial Services Consumer Panel