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Dear Sir, Madam,

DP15/05 Smarter Consumer Communications

This is the response of the Financial Services Consumer Panel (the Panel) to the FCA's Smarter Consumer Communications discussion paper (DP).

Role of the FCA and role of firms

The Panel has observed an increasing emphasis on demand-side solutions to fix all sorts of market problems, amounting to "*more disclosure plus a bit of consumer education*". This takes responsibility away from firms for designing straightforward products and explaining them in a way that is readily understood by consumers. We know more disclosure does not necessarily lead to better consumer outcomes, just information overload. To cope with this, many consumers use short-cuts such as headline rates on best buy tables, or brand recognition, to make decisions about buying particular products or services.

It is good to see this recognised in the DP, which says that some firms "*acknowledged that consumers' ability to make informed decisions is often impeded by ...information overload and excessive use of financial jargon and legal language that stops consumers engaging with information*". This highlights the need for the FCA to ensure that information is presented in a way consumers will understand, find useful and be able to act upon.

The DP says that the FCA will support firms "*moving away from... the perception that communications driven by regulation are the responsibility of compliance and legal staff*". The Panel believes the FCA should take a lead in demonstrating that its own communications are clear and comprehensible to consumers. Updating the FCA Register was an opportunity for the FCA to do this. However, the latest version uses a lot of legal and technical terms, which are not likely to be understood by consumers. We would urge the FCA to ensure that all its consumer-facing communications are written with the needs of the intended audience put first, and backed up with consumer testing.

Q1: Examples of proven and effective approaches to consumer communications in other financial and non-financial markets (UK and international)

Other industry regulators either require firms to publish information, or publish it themselves, to help consumers compare products and services across the market.

For example, Ofcom publishes factual service level data so that consumers can compare different aspects of telecoms services¹. The Food Standards Agency has gone further by developing a star rating hygiene measure for eateries, as well as 'Red, Amber, Green' ingredient labelling for supermarket foods. Both schemes enable consumers to engage with previously 'hidden' information and make more informed decisions at the point of sale. The publication of this information has also helped to shape the market. Firms have been able to benchmark their performance in key areas against other firms, resulting in improved competition. Similarly, the use of energy ratings on domestic appliances has led to manufacturers competing to reduce the energy consumption of appliances.

In the pensions and investment sector it is also worth comparing consumer communications among some platforms and 'robo-advice' firms to the more established providers. While pension providers get bogged down in jargon, many of the new (online) players in that market tailor their language to the level of customers far more effectively, particularly in their approach to explaining risk and suitability.

Q4: Suggestions for making information more effective and engaging specifically for consumers of the asset management industry

The Panel's discussion paper on investment costs² explained that the full costs incurred by consumers when making long-term investments are not consistently and comprehensively defined by firms, nor understood by consumers. Good communication means disclosing *all* essential information, not just that which is in the interests of the firm, even if it is considered the 'norm'. We were struck by the example from Nutmeg: this shows how the cumulative effect of charges can have a significant impact on the value of the consumer's investment in the longer-term. This is of course an essential concept to get across to potential investors. However, most consumers will, wrongly, assume that the fee charged by Nutmeg, as depicted in the graph, is the total cost they will pay. The graph excludes the costs of underlying investments and trading costs, and so is misleading. This cannot be described as good communication.

We think that that the transposition of MiFID II into UK legislation is a good opportunity to deliver better information for consumers. The Directive stipulates that information about *all* costs and charges incurred in connection with both the investment service and the financial instrument must be "*aggregated to allow the client to understand the overall cost as well as the cumulative effect on return of the investment*".

Disclosure is only effective if firms provide information consumers can readily understand. Consumers prefer to obtain information in different ways, so a single way of presenting facts (graph, table or text) and one medium (paper or digital) may not suit everyone.

There are numerous examples from across Europe of consumer-tested communication materials. In the Netherlands, financial services providers are obliged to issue at the consumer's request a financial brochure ("Financiële bijsluiter")³, which gives pre-sale information on the risks, costs and potential returns of complex products (similar to the upcoming Key Information Document under the PRIIPs Regulation).

The brochure, first introduced in 2002, was revised substantially in 2004 following consumer testing to include a graphic representation of the risks involved and the total potential costs to the investor. The consumer testing led to a significant increase in

¹ <http://media.ofcom.org.uk/news/2014/latest-customer-service-levels/>

² https://www.fs-cp.org.uk/sites/default/files/investment_discussion_paper_investment_cost_and_charges.pdf

³ <http://www.afm.nl/fbpdf.aspx?id=1915&type={E0B50F07-16E2-4423-830C-755C975C1085}>

consumers who said they understood the features of the product and the potential risks (from 69% before the 2004 revision to 95% in 2008).⁴

The Dutch regulator AFM also provides an online tool that firms can use to generate the brochure for their products, ensuring a uniform template and layout. As a result, 90% of Dutch consumers say they now find it easier to compare products before making a purchase choice.

In Sweden, consumers receive aggregate information on their accrued pension entitlements under the State retirement provision, occupational and personal pensions. This also includes a forecast of future entitlements. Since its introduction in 1999 the system has been subject to consumer testing to refine the contents and increase accessibility.⁵ Similar systems have been introduced in Belgium⁶ and the Netherlands.⁷

The European Commission is currently consumer testing different ways of presenting information on costs and risks in the context of PRIIPs disclosure.

Smarter consumer communications must be about *real* improvements to consumers and not simply perceived ones. Digital is not necessarily better. The FCA will need to take account of this both for the asset management industry and the financial services sector as a whole.

Q5: Examples of any other approaches to customer communications that you are currently developing and/or testing

No matter how much individual firms improve the information they provide to consumers, consumers still need tools that enable them to compare firms beyond price and product features. The FCA could play an important role in helping consumers to make sense of the market as a whole and to provide context to information from individual firms.

The Panel recently commissioned research⁸ to find out whether consumers have an appetite for information about firm conduct and quality of service, and specifically what consumers want to know about firms when they are making decisions about using them. The research shows that consumers want to know about market conduct and service level provision to help them make decisions about firms. However, they are clear that the information should be authoritative, impartial, depicted in a simple way and incorporated into existing decision-making tools, like comparison tables.

Following the research, the Panel has called on the FCA to:

1. Evaluate its own media communications with consumers and assess how they could be used more effectively to harness the power of consumers as 'co-regulators' and hence promote competition that benefits consumers. This should include improving the website to provide a comprehensive, easily navigable source of chronological information on all relevant aspects of firms' regulatory history (fines, redress etc.);

⁴ <https://www.rijksoverheid.nl/documenten/kamerstukken/2009/03/27/resultaten-onderzoek-effectiviteit-financiele-bijsluiter>

⁵ <http://ec.europa.eu/social/BlobServlet?docId=8390&langId=en>

⁶ <http://www.onprvp.fgov.be/nl/about/paginas/mypension.aspx>

⁷ <https://www.mijnpensioenoverzicht.nl/pensioenregister/>

⁸ <https://www.fs-cp.org.uk/sites/default/files/consumers-coregulators-research-2015.pdf>

2. Determine which service level proxies it might require firms to publish, alongside data about firm conduct, and how all this information might be made most accessible to consumers; and
3. Instigate the development of a simple, accessible measure or measures that would enable consumers to differentiate between firms that are likely to treat them well post-sale.

Q8 Evidence that other areas in the financial services market require specific improvements in consumer communications

It is important to segment consumers, not just products or product types. In doing so, firms need to consider those consumers who are digitally excluded as well as those who have differing levels of ability, financial literacy and interest.

In addition, the needs of microenterprises⁹ (and some SMEs), and the information available to them, should be fully aligned with those available to individuals. Microenterprises are in the difficult position that the majority of financial services products, and therefore the communications which go with them, are designed either for individual consumers or for more sophisticated business customers.

Terms and conditions

In the modern world, where many communications often take up no more than 140 characters, lengthy terms and conditions often remain unread.

Terms and conditions (including fees and charges information) should be set out in clear, transparent, language that can be quickly and easily understood and allow effective comparison of products and services. Important pieces of information should also be set out earlier on within the terms and conditions.

Fees and charges

The Panel likes the Federal Reserve Board's credit disclosure graphic, included in the DP.

However, it is important that consumers can see costs in context, and that figures cover actual costs and all hidden extras. For example:

- Investment costs (as described above);
- An APR is meaningless if the impact of other fees and charges is not taken into account;
- It often difficult to compare the total cost of a mortgage deal with only the headline rate readily available; and
- Lenders should include all fees in a total costs figure presented in advertising material.

It should also be clear what proportion, if any, of the fees are paid as commission. Advice costs should not be hidden in the 'product fee'. As with other financial and professional services the adviser's charge should be directly related to the service provided.

⁹ Businesses with an annual turnover of less than €2 million and fewer than 10 employees.

The Panel published a discussion paper in 2014¹⁰ highlighting vertical and horizontal cross-subsidisation in the personal and current account (PCA) market and retail banking more widely. While the Panel does not have a preferred model for the UK PCA market, we do believe that the costs and services of a PCA should be transparent to the consumer.

Tesco Bank has recently announced that it will show interest foregone on bank statements. This will help illustrate to consumers what their current account costs. Similarly, consumers should know beforehand exactly what an overdraft will cost them, whether authorised or not, and be alerted in a timely way (e.g. through a text message) when they are about to incur an unusual charge, so that they can take action to avoid it.

The Financial Ombudsman Service and the Financial Services Compensation Scheme

The Panel believes that effective use of published Ombudsman decisions and Ombudsman insight would be helpful for both firms and consumers. Given the large number of decisions published each year, improved indexing would make the information more user-friendly, better enabling firms and consumers to access it.

The Ombudsman could also, as the Panel has previously suggested, clarify what it means by the term 'upheld'. Few consumers will realise that complaints are classed as upheld if there was a dispute over the compensation awarded, even if the original case was found in favour of the consumer.

Whilst we understand the FSCS rules in relation to 'cover per brand' come from the European Directive, we still believe it is unreasonable for consumers to know which firms or trading names form part of a wider company group. It would be helpful for consumers to have clearer communications from firms or the FCA so that they fully understand the extent to which they are protected.

When a consumer enters a bank branch in the UK, they expect that standards of conduct, compensation, redress and data protection should be the same, whether the branch is UK or foreign-owned. If they differ, then 'passport' firms should be required to set out any differences upfront so that consumers are aware of this before transacting with the firm.

General Insurance

The Panel published a paper in 2013¹¹ identifying seven issues affecting consumers of GI products, many of which are relevant to better communications. The Panel called on the industry to:

- Be explicit where cover which a consumer might reasonably expect to be standard does not form part of a policy;
- Show clearly in cash the price increases to auto-renewed policies and remind consumers in good time that they can shop around for a better deal;
- Be clearer about the fees charged for basic policy changes and ensure charges reflect actual costs;
- Ensure information is presented in a way that encourages consumers to look beyond price when comparing policies;
- Be clearer about who owns comparison sites and whether or not they cover the whole of the market; and

¹⁰https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370876/Financial_Services_Consumer_Panel_discussion_paper.pdf

¹¹ https://www.fs-cp.org.uk/sites/default/files/cp_insurance_research20130719.pdf

- Put customers first, reward loyalty and move away from a culture that treats consumers with suspicion.

The FCA may want to address these issues when it looks at how firms could provide better explanations of product features. Many of the discussions for the paper focussed on internet sales, which makes addressing these issues all the more important for a world moving away from paper based communications.

Complexity at retirement

With the new pension freedoms, consumers need to understand risks in order to take charge of their pension savings, and the tax and benefits consequences.

Firms should communicate risks clearly to consumers at the time they arise, or change, in terms they will understand. This means language and transparency in the information provided must also be tailored to the needs of consumers who have not been faced with similar choices in the past; one which could determine whether their money will run out or which could affect the benefits they receive now. The pension reforms provide an opportunity for the industry to review the language they use in communicating with customers.

Greater consistency in the terms employed would make the industry's communication with customers more effective. While pension providers should be applauded for seeking more consumer-friendly ways of communicating the new flexibility – e.g. Scottish Widows refer to UPFLS as 'partial pension encashment' – the result is an even wider array of terms that creates additional confusion for those attempting to compare the options offered by various providers.

Yours sincerely



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Financial Services Consumer Panel