

## CONSULTATION PAPER CP118

### Question 1

**Do you agree with our proposal to prohibit moneylenders from engaging in targeted advertising?**

### Question 2

**Do you have any views on our proposed definition for “targeted advertising” as set out in the draft Regulations?**

We believe first that the order of the questions is wrong. Surely you have to define first and then propose to prohibit?

**Regards definition**, it is not sufficiently clear that the Bank is singling out Moneylenders (it is implied by the nature of placement in the Regulations). The definition and/ or pre-amble should perhaps read “targeted Moneylending advertising” and state that while elsewhere the aim is to bring us more into line with other sectors of the industry, here it is to set us apart (this is a point of principle rather than reflective of our view of the practice). The definition also fails to make clear whether an advertisement is “targeted” only if it incorporates all four sub points a) +b)+ etc ., or if some combination of the points makes an advertisement “targeted”. In any event, what exactly is defined as “low” income and under exactly what kind of circumstances would a consumer be left needing credit facilities, but it wouldn’t be in their best interest to obtain credit from a moneylender.

**As regards the practice of targeted advertising**, this Company has never engaged in any form of advertising and wholeheartedly believes that it should always be the consumer who initiates a conversation about taking out a loan.

### Question 3

**Do you see any reason why unsolicited contact with a new customer, on foot of a referral from an existing consumer, should not be prohibited?**

This Company has never advertised for new customers, preferring instead to rely upon recommendation by existing customers to family and friends who must then approach us to request credit. We have no problem with the principle that these approaches should be consumer driven.

### Question 4

**Do you see any practical difficulties with our proposal to prohibit unsolicited contact with existing consumers for the purpose of sales and marketing?**

This Company has never asked an existing customer to take a loan, nor has it ever asked a customer to increase the amount of a loan requested. As we do not trade in goods or vouchers, we have no experience of the difficulties which may arise with this proposal.

### Question 5

**Do you have any views on the proposal to remove the existing exception from the unsolicited contact rules for moneylenders providing non-cash credit?**

See our response above.

### Question 6

**Do you agree with the proposal outlined above in relation to the additional rules specifically targeted at discounts which are predicated on availing of credit?**

See our response above

### Question 7

**Do you have any views on what, if any, unintended consequences may arise in implementing this proposal?**

See our response above

### Question 8

**Do you see any reason why the existing warning statement should not be enhanced in the manner set out above?**

At Section 10 "Making your submission" the Bank requests Moneylenders to give their reasons for responses. At point 5 on page 12 the Bank says its proposals are designed to "Bring requirements into line with other sectors regulated by the Central Bank". On page 15, in Section 4, the Bank uses the words "it should be the consumer who initiates a conversation .....". On page 20 the Bank refers to "those who do not understand their cost of credit"

In considering question 8 it is important to keep the above points in mind as well as other statistics provided by the Bank or other organisations. It may also be useful to consider a situation drawn from real life:

Example. Consider a customer (who lives in Kilmacanogue, Co Wicklow) and who deals with the Credit Union in Greystones. The customer requires a loan for €500 repayable over approx 12 months.

With Wicklow Finance the total charges over a 50 week agreement would be €250.

With the Greystones Credit Union, the loan agreement charges would be in the region of €50, but the total cost of the loan would be significantly higher. For a start the customer would have to drive to Greystones to pay (round trip 12 miles approximately x 50 weeks = 600 miles). At say 30 mpg this represents 20 gallons of petrol = €135 @ €1.49/litre. Then the customer would have to park, which is technically possible on Greystones Church Road at €1/hour with a minimum payment of 20c., but at times almost impossible to find, and, at 20c., the 12 minutes bought is very tight. Parking in SuperValu is more reliable, but at €1. Let us say an average of 50c resulting in a further cost of €25

for 50 repayments (50 parkings) . At this stage, if we disregard missed payments which are cost free with the Moneylender but not with the Credit Union, the costs are more similar than they originally appeared. And then we get the most significant invisible charge. The most expensive commodity in the world is arguably time, because no amount of money can buy you even a minute. Government has attempted to cost it, at least in so far as giving your time to someone else by way of employment, and the minimum rate is €9.55/hour. In our example, it would be impossible to drive the return journey between Kilmacanoge and Greystones, park and walk to the Credit Union, queue and make a payment , in anything less than an hour. Therefore, 50 payments equates to 50 hours, which equates to €477.50 if the customer were to be paid for doing the “job” of collecting for the Credit Union. The real cost of the Credit Union loan totals a potential €687.5 in charges (though only €50 will be shown in the credit agreement) !!!!! If the Credit Union loan was set against a level of savings, the time and travelling expenses to build those savings inflates the real cost still further.

Given this example, together with other statistics, let us now look at the Bank’s proposal. The OVERWHELMING MAJORITY of consumers are happy with the service provided by their Moneylender (almost unbelievably, almost 90% according to the Bank’s own first customer survey). The MAJORITY of customers, 66%, cite convenience and ease of availability as a reason for using a Moneylender AND THEY ARE WILLING TO PAY A PREMIUM FOR OUR SERVICE. The MAJORITY have savings elsewhere but still choose to use the Moneylending service –BUT- some (not a MAJORITY ?) say they do not understand their charges. That is, the charges set out clearly in the SECCI, and contained clearly in the Credit Agreement, and repeated clearly on the Payment Card, often with customers having one loan after another over a period of many years.

**If these “satisfied” consumers choose the Moneylending service, why is the Bank not respecting that the consumer initiates the credit request IN SPITE OF AND IN THE KNOWLEDGE OF ALTERNATIVES?**

**How is a consumer who says (the Bank says) they cannot understand the charges when they are so clearly and repeatedly set out, going to understand the complexity of “invisible charges” with other alternative regulated providers?**

**Finally, because the Bank wants to bring the different sectors into line, will it be introducing warnings about the hidden dangers of “invisible” charges in, for example, Credit Union documentation, and will their documentation say that Moneylenders may provide a much better option overall ?**

## Question 9

**Do you agree that the enhanced warning statement should be included in all Moneylending advertisements?**

As stated previously, this Company does not advertise. However, in the interest of fairness and bringing different sectors into line, will there be equivalent warnings tailored to other sectors?

## Question 10

### Do you have any views on the proposal to require moneylenders to provide consumers with an information Notice at pre-contract points?

The Bank recognises the extremely high level of customer satisfaction that is enjoyed by Moneylenders, and also recognises that the majority of consumers welcome the convenience and availability of the service provided. In light of this we do not understand why the Bank seems determined to introduce obstacles or off-putting notices.

Breaking the suggested elements of the proposed Notice down:

**High cost nature of the credit** – this is already more than adequately dealt with

**Prompt consumers to consider alternatives** – the Bank is supposed to operate in the interest of consumer protection, yet says it is not within their remit to deal with illegal moneylenders, that is a matter for others to deal with. We have a similar view in regard to alternative credit sources. It is our job to provide credit with an associated level of customer service excellence that is unmatched. It is not, and should not be, part of our remit to promote other credit organisations. Unlike illegal moneylenders, other credit organisations are free to shout to the world and anyone who will listen about the excellence of their particular service (and the Bank has, if it is to be consistent in its approach across the different sectors, a duty to warn consumers about potential hidden costs). The Bank acknowledges that the majority of customers know about these alternatives, but still choose to use the Moneylending service. Why not just let each credit institution “do its thing” and let the consumer decide? If there is a need to inform consumers about alternatives, this is not the place to do so. Perhaps the Bank could use its influence with the newly combined Competition Authority/National Advertising Authority and get them to produce an information leaflet wherein it would be possible to fully develop the advantages/disadvantages of the various alternatives.

**Signpost consumers to MABS** – we deal at length elsewhere with the shortcomings of the MABS organisation. The suggestion here is to signpost MABS at pre-contract!! If MABS were ever to be able to change and operate more professionally, this is still not the proper time to signpost their service. The correct time should be when the consumer is in some jeopardy e.g. losing their home, or car, etc.. At pre-contract there isn't even an agreement to provide credit.

**Prompt consumers in receipt of social welfare payments to check that they are receiving their full benefits** – as with our comments above in relation to alternative sources of credit, our duty is to provide credit with an associated level of customer service excellence. We are not agents of the State and it is not our DUTY to prompt consumers about social welfare services. Of course, we may do so of our own volition, and indeed we have done so, including drawing the attention of MABS to the possibility of FIS (Family Income Supplement) when they have not shown this in a consumer's Financial Statement.

## Question 11

**Do you have any suggestions to the format and content of the enhanced warning statement (referred to at Section 5.1 above) or the Information Notice to enhance the quality, relevance or impact of the information provided?**

The warning statement needs to be concise, yet meaningful. Perhaps “It is impossible for moneylenders to provide their level of service excellence without this being high-cost credit” .

The requirement in the notice to prompt consumers to consider alternative options is wholly inappropriate as we have argued above. This moneylender attributes its customers with a level of basic understanding about the cost of credit, particularly we believe that customers understand that the excellent home collection service is expensive to provide and leads to high-cost credit. We believe our customers make informed decisions about where to obtain credit and we respect their right and freedom to choose.

#### **Question 12**

- A. Do you agree with these proposals?**
- B. Do you foresee any practical difficulties arising from the implementation of these proposals?**

No.

All credit applications should be considered on the same basis i.e. as credit applications. If there are different considerations for different loan purposes, then consumers will simply learn to give the “right” answers to any questions about purpose. In any event, if a consumer has savings put aside for a specific purpose (say a school trip) and then a larger than expected fuel bill comes in, is there a difference between applying for a small loan to pay the bill, or paying the bill out of the put aside savings and then applying for a small loan to fund the school trip?

If the principle is wrong then the notice is unnecessary.

#### **Question 13**

**What do you suggest be included within the concept of “immediate basic needs” to which these proposals would apply?**

We do not agree with the proposal, so there should be no list. If a list were to be created, customers will simply work round the list.

#### **Question 14**

- A. Do you see any reason why the Central Bank should not prevent moneylenders from providing a second or further loan to a consumer unless the consumer is provided with the aggregate loan information set out above?**

**We have already argued that the Bank should be in the consumers' home to witness the interaction with the moneylender. If the Bank were to gain that real-life experience then it would be seen that the overwhelming majority of customers use their payment cards to hold the money to pay the moneylender. Some customers with more than one loan leave the money as one lot, leaving €50 to pay loan repayments of, say, €30 and €20. Others will leave €30 in the section of the payment card with a loan repayable at €30, and leave another €20 in the section with a loan repayable at €20. Either system works for the moneylender and customer alike. In many, many years of actual experience we have not encountered any customer who has attempted to continue paying a loan when we have marked it as "Paid". We do not understand what more is needed than the payment card. We are actually doing the job and do not see any difficulty for our customers, and we do not see that in practice there is any real problem.**

The Bank argues that some moneylending customers do not understand their cost of credit despite the SECCI, the Agreement and the Payment Card. Now we are to believe that their understanding will improve with the issue of "a schedule of aggregate loan information" – showing essentially the same information as the Payment Card which they already have!!!

Not sure what difference it makes to the consumer what the split of the balance is between principle/interest, or how this is calculated or shown. A simple pro-rata based on the original ratio of charges to loan amount may give misleading expectations in relation to settlement!

Obstacles in the issue path may lead to customers seeking a second or subsequent loan from another lender, who may be dearer or illegal!!

May tempt consumers to take "one big loan" even if they don't really need it, because the Bank doesn't like two or more loans even if the customer initiates the request! Multiple small, short duration loans may be infinitely more sensible than one big loan. Trust the consumer.

**B. Is there any other information that a moneylender should provide to the consumer at the same time?**

The payment card is the only information required.

### Question 15

**Are you in favour of the introduction of a debt servicing ratio restriction as outlined above?**

In the pre-able to the question the Bank refers to consumers experiencing difficulty with meeting their repayments and quotes previous research statistics to support its proposed initiative. It says that as many as 79% of customers missed at least one repayment. In my own circumstance, 100% of customers missed repayment for week-ending 3<sup>rd</sup> March 2018 because I didn't collect – the snow made it impossible!!!! Many of my customers miss one or two repayments at Xmas/New Year and St

Patrick's Day was particularly difficult this year. So what!!! The more forbearance we show, without penalty charges, the better the credit deal the consumer gets.

The Bank says there is some evidence of customers with multiple loans experiencing difficulty with repayments. If the "difficulty" is that consumers miss between 1 and 3 weeks on a 25 week loan, or between 1 and 6 weeks on a 50 week loan, **THEN THERE IS NO PROBLEM** as these tolerances are built into our business model.

The 2016 MABS report shows 763 moneylending customers seeking help with their moneylending debt. From 350,000 customers (Central Bank figures) that is almost a quarter of a percentage point. **THERE IS NO PROBLEM.**

The Bank has also observed some consumers paying high proportions of their income paying off high cost loans – again, is this a problem? Some other customers choose to use a high proportion of their income on alcohol, or smoking, or gambling, or eating to obesity, or on pointless and transitory fashion trends, or on expensive cars. The State can offer guidance, but the individual should be allowed to choose. If the result is so few customers presenting to MABS for assistance (and representing such a tiny proportion of problem debt), **THERE IS NO PROBLEM.**

The Bank has analysed a sample of bad debt write-off and observed in "certain cases" that up to 30% of income was devoted toward repaying moneylending loans, but without further detail this fact is meaningless. If the Bank looked at 1000 cases and found 2 in the above 30% income scenario, then there is no problem!!! If the Bank found much higher instance, then it should perhaps be warning lenders to be cautious of "borrowing sharks", but should note that some consumers got large amounts of credit free i.e. they didn't pay for it.

With moneylending loans the repayment periods are relatively short, and consumers can quickly work themselves out of temporary hardship, and with no penalty for arrears and great forbearance by lenders, this seems to be a win, win, win situation for consumers.

The Bank argues that a debt servicing ratio will reduce the possibility of consumers over-extending in respect of their borrowing from licensed moneylenders, but may well drive some customers to use several lenders concurrently, with illegal lenders being the most convenient at the point of issue!!!

## Question 16

**Do you have any views on what percentage of income the restriction should be set at and whether it should be based on gross or net income .....**

In practice the proposal is too crude. A housewife with an income of €350 will not have as much "disposable income" as, say, a single person living at home on the same income but with little or no outgoings or responsibilities.

The restriction should not be set at any percentage – this is too crude. In any event, the decision to grant or refuse credit should be left to the consumer and the lender to agree, based upon an assessment of:

- a **PROVEN** payment history (which avoids any theory by anyone)
- an assessment of the consumer's "willingness" to pay, which is an Art rather than a Science
- a sensible progression strategy "start them low, grow them slow"
- an assessment of available income (which needs to meet a reasonableness test, but which actually proves nothing)

### Question 17

**Should a restriction also apply to forbearance arrangements for moneylending consumers in arrears? Do you have any views on how it should apply in an arrears case (e.g. do you consider that different factors also need to be taken into account in such a case)?**

The Bank doesn't make clear what it means here. Does this question relate to the forbearance arrangement itself i.e. if the consumers circumstances have changed, he/she cannot agree to pay more than an imposed ratio against existing loans? With good customers, we may not be aware of reduced income and may inadvertently exceed the "ratio" – which perhaps serves to indicate that the idea of the ratio is wrong in the first place. This cannot be applied to moneylenders in isolation. The MABS situation of endemic unfairness is bad enough as it is!!

If the Bank means that there should perhaps be a ratio restriction for a subsequent issue on top of an existing loan already subject to a forbearance arrangement (or about to enter into a forbearance arrangement), then I am not sure what "consumer protection" principle is at work. It seems to be implied that we are not to be allowed to treat our customers with compassion or understanding.

### Question 18

**Do you have any views on the potential impact the introduction of a debt servicing ratio restriction, as outlined above, might have on consumers and the licensed moneylending sector?**

Potentially, consumers may be led into situations where they deal with multiple lenders, both legal and illegal. They will certainly be pressured themselves, or by less scrupulous lenders, to borrow as "long" as possible to keep their repayment rate low but their indebtedness higher than it otherwise might have been. Not good consumer protection outcomes in either event.

Small scale moneylenders are characterised by long established customer relationships, often from one generation to the next. Blanket ratios take no account of the special relationships which are built over many years, and consumers and lenders alike may feel "betrayed" by the Bank and its



arrangements in the name of consumer protection, but in name only. There appears to be a much more “friendly and convenient” service available (at point of issue at least) by consumers turning to illegal moneylenders. A market is potentially in the making, and you can be sure it will be filled!!!

#### Question 19

**Are there any circumstances which you consider should be exempted from such a debt servicing ratio restriction?**

Yes. ALL MONEYLENDING loan applications should be considered against the items listed at answer 16 above, and no other.

#### Question 20

How should such a restriction operate in the case of “running account” credit provided by moneylenders? For example, should it operate on the basis of the consumer’s credit limit on that account?

If the Bank proposes a “ratio” restriction on repayment rate in relation to income, it should by definition apply to the credit agreement repayment rate **BUT FOR ALL INSTITUTIONS** and for all products.

#### Question 21

**Do you agree with the proposal to introduce an explicit requirement that moneylenders provide on-going training to staff and agents in respect of the firm’s lending policies and procedures?**

It is agreed that moneylending firms should have lending policies and procedures, but, given the spectrum of differing operation sizes, it is not appropriate to introduce explicit training requirements. In a true sole trader operation does the operator act as trainer or trainee? Similarly, in a small operation (perhaps 2 or 3 family members) with little or no staff turnover, the proposal is too formal. This is perhaps relevant to firms with more than a threshold number of staff.

#### Question 22

- A. Do you agree with the proposal to require moneylenders to have written lending policies and procedures in place?**
- B. If you agree with the proposal, should moneylenders be required to address any other matters within their lending policies and procedures?**

We do not foresee a problem with requiring written lending policies and procedures, but we do foresee difficulty with the difference of approach between the Bank and individual moneylenders. The

Bank looks for “consistency” yet the smaller a moneylending operation is, the more personal and flexible will be the approach. The Bank looks toward procedures that are “fully adhered to at all times” whereas the moneylender (particularly the smaller ones) will tailor his/her approach to the individual. Moneylenders do not see credit assessment as a straightforward “tick and check” procedure, but rather look to a customer’s past record and we take family dealings into consideration, and we are compassionate and forbearing as circumstances demand. This can sometimes mean granting a loan to a customer who is already in arrear with an existing loan.

### **Question 23**

**Do you have any comments on the proposal to require moneylenders to retain records of income and expenditure relied upon to assess a consumer’s creditworthiness?**

First it should be recognised that moneylenders place very little reliance upon income and expenditure, whether proven or not. The prime consideration is proven payment history, and this can and does over-ride other factors. In so far as the income and expenditure comes into play, we see no problem in relying in the main upon a consumer’s self declaration on the application form. If there is a doubt about income (more relevant to new customers only) a moneylender may well ask for proof, and if it is available, the moneylender will keep a record, but this would certainly not be relevant to all cases. Expenditure is almost exclusively down to self declaration, even with new consumers.

### **Question 24**

**Do you have any comments on the proposal to introduce explicit obligations on moneylenders to engage with third parties who are acting on behalf of borrowers ?**

Wicklow Finance has no problem engaging with third parties acting for borrowers, our difficulty is that MABS (almost exclusively the agent concerned) will not always engage with us either on substantive general matters, or in relation to individual matters contained within customers financial statements.

In practice we find the MABS operation has the following weaknesses:

- our national government has, in keeping with international practice and European “guidance”, adopted austerity measures in order to extricate the country from its debt problems. This is not the ethos of MABS, who believe that clients should be “comfortable” with arrangements no matter how clearly unreasonable this is, or for what period the customer will remain in debt and therefore excluded from further credit
- the MABS system is based upon an unfair distribution of available payment resources. At its worst, it has the potential to give rise to grotesque distortions, at its best it is always unfair to creditors with short repayment periods and consequently higher relative repayment rates. We have in separate communications with MABS, elaborated on the unfairness of their system. We did not feel it was

professional of us to merely flag up the inadequacy and so we proposed a simple, fair solution but MABS will not engage on this matter and there seems no-one who will impose an obligation upon them to do so.

-MABS will not give customers any money advice or help with budgeting, concentrating instead simply on the lowest debt repayment avoidance arrangements they can. In order to achieve this, there is no realistic challenge to the outgoing expenses reported by customers

-removal of the moneylender from the doorstep, together with repayment arrangements which are unrealistically skewed too much in the customer's favour, creates an environment which is conducive to fraud.

-repayment schedules over periods which are too long, lead to customers becoming fatigued with the arrangements, and they subsequently drop out

-there is no provision for regular review and without the moneylender on the doorstep there is no regular management information

The first priority ought to be a thorough and detailed review of the MABS operation and customer outcomes. This should lead to a root and branch reorganisation of MABS policies, and then it will be more appropriate to consider legislating for moneylenders' responses.

## Question 25

### **C. Do you agree with the proposals outlined above in relation to the additional rules specifically targeted at tightening the rules in place around repayment books and collections?**

Repayment books are in reality the most important of all the documentation in the customer/moneylender relationship. They should always be kept up-to-date and fully completed as part of the trust building relationship between agent and customer.

The moneylender wants to collect at the consumer's home and wants to keep to a regular agreed time. It is the most cost effective arrangement and consistency helps with collection performance. However, we see nothing wrong in agreeing to a consumer's request to collect on days or times outside of usual arrangements, or at places requested by the consumer. Such accommodations are part of the excellent customer service which the moneylender provides (and though the occasions are limited, they usually don't suit the moneylender) and should not be restricted.

## Question 26

**Do you have any comments on the changes proposed above, that is:**

### **A. Applying relevant requirements under the 2010 Regulations to loan amounts below €200;**

- B. Introducing a specific protection for vulnerable consumers;**
- C. Introducing strengthened requirements for communicating with consumers;**
- D. Requiring that consumers in arrears are signposted to MABS earlier; and**
- E. Aligning the wording of requirements with the wording of similar provisions in the CPC 2012, where appropriate.**

- A. No comment
- B. First, we are not dealing with whole of life mortgages, the investment of entire life savings, etc., we are dealing with small unit loans. Secondly, there is a problem surrounding “identification” without the Bank providing an exhaustive list of definitions against which the moneylender can check, and even then we foresee differences in interpretation and circumstance e.g. are, say, all persons over the age of 65 vulnerable? Is there a difference between a 66 year old consumer who has dealt with us over a twenty/thirty/forty year period, and a new customer (unlikely unless switching from another moneylender)? Is there a difference between one 66 year old living alone, and another living with one or maybe even two younger generations, who may themselves be customers? Unless there is compelling evidence that new protections are needed we believe that, in what must be extremely limited circumstances, moneylenders should be left to operate fairly, professionally, with integrity and in the customers best interest – without specific protections and lists, etc
- C. No comment
- D. We have already argued that the forbearance which is a feature of our business will give rise to far too many, and inappropriate arrears letters. Unless consumers face some jeopardy, we do not believe the current requirements are necessary, and we can see absolutely no justification for earlier signposting.
- E. No comment

### **Question 27**

**Do you have comments on the attached draft Regulations? In your response, please quote the number of the specific provision(s) which give rise to your concerns and, if possible, suggest alternative drafting or solutions.**

The scope of the consultation has been so far reaching and there is such fundamental divergence between the thinking of the Bank and Moneylending member firms that we believe a major redraft of the statutory instrument is required, with entire sections we believe needing to be deleted.

We believe that the Bank’s customer research should be completed, consultation responses reviewed and discussed with the representative body (CCARI) and then, when the statutory instrument has been redrafted, it will be appropriate to comment on precise wording and meanings.

**Question 28**

**Do you have any suggestions for further reform in the moneylending sector, e.g. are there any gaps or areas omitted from the protections proposed in this Consultation Paper?**

No comment

**Question 29**

**Do you have any other views on the overall function and risks of the licensed moneylending sector in Ireland?**

No comment