

Consumer Protection Directorate
Central Bank of Ireland
PO Box 559
Dublin 1

To learn more go to
layahealthcare.ie
or call us at
021 202 2000

6th June 2024

Re: Response to CP158 Consultation Paper on the Consumer Protection Code

To whom it may concern,

Laya Healthcare ("Laya") welcomes the invitation to share our views on the Central Bank of Ireland's, ("Central Bank"), review of the Consumer Protection Code 2012 and is keen to engage in CP 158 - Consultation Paper on the Consumer Protection Code.

Ireland is a thriving global hub for health insurance and Laya healthcare strides to be progressive, innovative, and inclusive, providing competitive and sustainable products and services to our members in Ireland. To contribute to this review, Laya proposes to respond specifically to the proposals relating to health insurance.

The Code needs to remain readable and concise and further enhanced with practical examples. Sector specific regulations and guidance would further ensure a consistent understanding and application. Together with the Central Bank we hope to remove the complexity for our team and our members alike. The below responses aim to highlight the areas for improvement or clarity in the proposed regulations and supporting guidance.

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Q.1 Do you have any comments on the Securing Customers' Interests Standard for Business, Supporting Standards for Business or the draft Guidance on Securing Customers' Interests set out in Annex 5?

Further guidance would be valuable surrounding the Central Banks' expectations in how exactly firms may evidence how exactly they have aligned Culture, Strategy, Business Model, Decision-Making and Systems, Controls, Policies, Processes and Procedures with Customers' Interests. We believe that insurance firms already operate to a high standard for securing consumers interests. The Consumer Protection Risk Assessment (CPRA) guidance already demands that the customer is central to our processes and that we take full account of the implications of the firm's strategy on consumer protection. Further, Compliance and risk functions are already involved by the firm and proactively consulted on consumer protection risks, with the ability to influence decisions.

Q.2 Do you have any comments on our expectation that firms offering MiFID services and firms offering crowdfunding services should consider and apply the Guidance on Securing Customers' Interests?

N/A. This question is not relevant to the insurance industry, so we do not feel best placed to comment.

Q.3 Do you have any comments on the proposed Code enhancements with regard to digitalisation?

Laya embraces the simplification of the digital journey and the value which that may add to those consumers not as comfortable with digital platforms. Laya is concerned that rather than enhancing and simplifying the journey for those consumers, some provisions add a layer of doubt and slow down the online journey for all consumers. For example, the inclusion of a pause statement raises questions regarding how efficiently a consumer can complete a transaction. Failure to complete a transaction can be particularly detrimental to a consumer in the case of health insurance where continuity of cover is so important.

This additional step would arguably lengthen the average customer journey time on a digital platform. Further, where doubt is created via the digital journey it may result in driving consumers to use a communication channel not in line with their preferences e.g., the phone.

Additionally, a notice of expiry of cooling off period requires another communication to a member which may cause the consumer to question or doubt the completeness of their purchase. In particular with Health Insurance, consumers need to be satisfied that they have purchased their policy and are adequately covered for medical expenses upon completing the transaction.

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Ultimately, where significant operational development is required, there is an increased risk of the costs of the development being passed on to the consumer through increased premium.

Q.4 What are your views on the proposed requirements on banks where they are changing or ceasing branch services?

N/A. This question is not relevant to the insurance industry.

Q.5 Do you have any comments on the 'informing effectively' proposals?

Increasing amounts of EU and domestic regulation are causing additional disclosure requirements which can result in information overload for consumers and have a detrimental consumer impact, taking into account the sheer volume of documentation that consumers now need to review as part of new business, renewal and ongoing communications. Accordingly, it is difficult to understand how compliance with the new principle of informing consumers effectively would be achieved in the context of the numerous disclosure obligations arising from both, domestic and EU Regulations.

Q.6 Are there any specific challenges regarding implementation of the new Informing Effectively Standard for Business?

Insurance firms are already subject to the Consumer Insurance Contracts Act, which requires mandated information to be shared with consumers. The CBI should ensure that this Standard allows for alignment with the legislation.

Q.7 Do you have any comments on the proposed enhanced disclosure requirements for mortgages?

N/A.

Q.8 Do you have any comments on the proposed enhancements, or any further suggestions on the CCMA?

N/A.

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Q.9 Are there other actions that firms could take to ensure that customers understand the status of unregulated products and services and the potential impact for consumers?

Clarity around the definition and scope of “unregulated activities” would be welcomed. Laya would question if wellbeing activities or services would satisfy the term “services of a financial nature” as there is no realistic prospect of negative financial impacts for customers. Perhaps a distinction could be made between the treatment of non-financial services (e.g., health and wellbeing) and non-regulated financial services (e.g., crypto currencies etc).

Q.10 What other initiatives might the Central Bank and other State agencies consider to collectively protect consumers from financial abuse including frauds and scams?

Perhaps the CBI could provide some examples of “financial abuse” per industry type as these obligations could be more relevant for certain types of industries rather than for others.

Q.11 Are there any other circumstances that we should consider within the proposed definition of financial abuse?

Not from our perspective.

Q.12 What are your views on the proposed amendments to the Consumer Protection Code in relation to consumers in vulnerable circumstances? Do you have any comments on the draft Guidance on Protecting Consumers in Vulnerable Circumstances?

Overall, Laya embraces the addition of support to consumers in vulnerable circumstances. The definition of a vulnerable consumer is now much broader and relates to consumers in vulnerable circumstances, which is much more fluid. The primary concern from our perspective is around the recording of the vulnerability. For Health Insurance in particular, in most cases the vulnerability of a member is inherent or assumed. Further, the changing nature of one’s health means a consumers’ health circumstances may change frequently throughout the duration of their health insurance contract which may result in unnecessary and burdensome communications to the member.

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Laya feels there is also a sensitivity issue here, whereby a consumer may be offended and further distressed by being asked if they may be classed as “vulnerable” during a potentially already challenging period health wise. Also, if explicit consent is required to note a consumers vulnerability, is explicit consent then required to remove the vulnerability?

Q.13 Is the role of the trusted contact person clear? What more could a Trusted Contact Person do?

The benefit of the role of trusted person is unclear. Health Insurers already permit policyholders to provide verbal or written consent that a person may act on their behalf and give instructions to the insurer in certain scenarios. For example, a parent has provided consent for an adult child to discuss their policy, claims queries etc. Typically, insurers would not contact this trusted person but would be contacted by them, commonly on an inbound call.

Q.14 Recognising the role of EU consumer protections concerning climate and sustainability, do you have any comments on the proposed Code protections relating to climate?

We welcome enhancements in the area of climate and sustainability however question how additional notifications and communications to members in paper format compliments these initiatives? This risks over-disclosure when a text/email would not only be more effective and efficient, but also less climate friendly in terms of reducing paper.

Q.15 Do you agree with our approach to including sustainability preferences with existing suitability criteria? Have you any suggestions on how we can ensure all suitability criteria, including those relating to financial circumstances and sustainability preferences, are given an appropriate level of consideration??

No suggestions.

Q.16 Are there specific elements of the revised Code that should be tailored to BNPL, PCP, HP and consumer hire providers?

We have no comment.

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Q.17 Are there other protections within the General Requirements under the revised Code that we should apply to High Cost Credit Providers?

N/A

Q.18 Are there elements of the revised Code that you think should be applied to SMEs

No comment.

Q.19 Do you have any comments on the change to the definition of “consumer” under the revised Code to include incorporated bodies of less than €5m in annual turnover?

No comment.

Q.20 Do you have any comments on the proposals to apply an explicit opt-in requirement for gadget, travel, dental and pet insurance only?

No feedback in relation to gadget and pet insurance however, we would not be in agreement with the explicit opt-in requirements for Travel and Dental products.

Similar to private medical insurance and the importance of continuity of cover, waiting periods apply to Dental insurance. Consumers often purchase dental insurance to complement their health insurance. Very often the renewal dates for dental insurance are aligned with renewal dates for private health insurance for consumer ease. Perhaps it would be considered burdensome for the consumer to have two differing approaches at renewal time.

Q.21 Do you have any comments on the proposals to introduce an additional renewal notification for non-life insurance products?

Laya would strongly disagree and question the rationale for an additional renewal notice. There is a risk that an additional notice in advance of the prescribed renewal notification at 20 business days will drive consumers to call centers, impacting on capacity and leading to customer service issues. Further, from a pricing perspective, the final price for the premium may not be known at that point and may lead to further frustrations for the consumer.

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Laya would ask the Central Bank again to consider proposals which would complement those set out in the Health Insurance regulations.

Q.22 Do you have any comments on the proposed enhanced disclosures for long-term investment products and pensions?

No comment.

Q.23 Do you have any comments on the proposed revised requirements for handling of errors or complaints?

Laya would welcome a definition of “significant error”, and/or a threshold in relation to same.

With regard to complaints and the proposal to “provide an immediate or automatic acknowledgement using the same medium, confirming receipt of the complaint”, there are a number of challenges with this proposal which could lead to consumer detriment. This proposal eliminates personal intervention and could add to the frustration of the consumer. There are further challenges in identifying those electronic communications which would warrant an automatic reply unless consumer explicitly stated in the subject line that communication was a complaint or if there was a standalone complaint mailbox. Without that investment in development, firms would have to create unique system logic to understand emails that were an expression of grievance or dissatisfaction.

Complaints currently received by email for example don’t necessarily have the word “complaint” in the body of email or indeed on the subject line. There is a risk that either a complaint could be missed or a consumer could receive an automatic notification in error.

Although not part of the question, the change to claims handling timelines have a material impact on insurance firms. The timeline has been halved from the current ten business days to five working days. As we know, the volumes of claims are higher than ever, and we suggest keeping the current timeline of ten business days. Further, claims handling in the Health Insurance market can oftentimes be a far more complex process involving a number of parties contributing to the resolution of the claim. Engagement with hospitals, consultants and GP’s can be quite lengthy and with detailed documentation to review therefore we would strongly request that the 10 business days timeline remains.

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Q.24 Do you have any comments on the proposed changes to the record keeping requirements?

Concerns surrounding record retention is being raised via Insurance Ireland.

Q.25 Do you have any views on our analysis of the overall benefits associated with the proposals set out in this consultation paper?

Laya welcomes enhancements for the benefit of the consumer, however due to the materiality of some of the proposed changes, we believe that some proposals will not bring the desirable benefits to the consumer as compliance with the Regulations and in many instances, will bring poorer consumer outcomes for the cost of updating financial firms' systems and procedures.

Q.26 Do you have any views on our analysis of the costs associated with the implementation of the proposals set out in this consultation paper?

From a financial perspective, there will be significant system development as well as additional personnel resourcing required. The cost of this won't be known until the final regulations are released and we are clear on the expectation of the Central Bank.

Q.27 What are your views on the proposal for a 12-month implementation period? Should some proposals be implemented sooner?

Given the breath of the proposed changes, 12 months is a considerably tight timeline for implementation. We would encourage the Central Bank to consider a phased implementation. From a financial perspective, there will be significant system development and additional personnel resourcing required. The cost of this won't be known until the final regulations are released.

Laya welcomes any further opportunity to participate in any future discussions to guarantee a greater understanding and segregation for health insurance within the Code.

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If you have any questions about this letter or require any further information, please contact me.

Yours sincerely,

Mary Condon

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