

29/06/2008

Consumer Protection Codes Department  
Financial Regulator  
P.O.Box 9138  
College Green  
Dublin 2

Re: Voluntary Consumer Protection Code for Credit Unions  
(In respect of their Core Services)

Dear Sirs,

Further to your publication of the Voluntary Consumer Protection Code for Credit Unions, (In respect of their Core Services) and your invitation to make submissions in relation to the Consultation Paper, the following are the observations and comments from Ballyphehane Credit Union Limited.

We note with interest that any participation or “buy-in” by Credit Unions with this Consumer Protection Code will be as you indicate in your Introduction, on a Voluntary basis only as *“there is no legal basis to support the imposition of a Statutory Consumer Protection Code for Credit Unions in respect of their core services.”*

We are very glad of this as we are of the view that this Consumer Protection Code in respect of our core services would be a very great imposition indeed, imposing severe demands, duties and requirements on Credit Unions vis-a vis their interaction with their member-owners, which ironically rather than improving our service to members, would in fact have the completely opposite effect.

You also state in your Introduction that a key driving force behind the establishment of the Financial Regulator was *“a determination to put consumers at the heart of financial services regulation”*.

The Credit Union Movement in Ireland, now in its 50<sup>th</sup> year, is one of the greatest financial success stories, due precisely to the fact that, from day one, our members are and continue to be, at the heart of our organisation. Being a non-profit making organisation, we have one purpose only, to be of service to our members. That is primarily what sets us apart from other financial institutions.

Also in your Introduction you state your belief that consumers are entitled to *“the same levels of protection regardless of which provider they are dealing with”*. Credit Unions can only deal with their members and cannot deal with just any consumer who may wish to avail of the services of the Credit Union.

You list on Page 7 of your Voluntary Consumer Protection Code for Credit Unions, Eleven General Principles, the first nine of which have been in operation by Credit Unions since our inception. This is why in any survey you would like to undertake, you will find that Credit Unions are top of Financial League Tables when it comes to acting honestly, fairly and in the best interests of its members. Unlike press reports on some other financial institutions, you will not find any allegations made against Credit Unions in respect of overcharging, exerting undue pressure on members to avail of a service or of trying to deliberately mislead our members.

That leaves us with your remaining General Principles 10 and 11, which state that a Credit Union must ensure that in all its dealings with members, it:

(10) “ensures that any **outsourced activity** complies with the requirements of this Code; and

(11) *complies with the letter and spirit of this Code.*”

These General Principles, refer specifically to compliance with this Code and conveniently ignore the **Voluntary** nature of the proposed Code and the fact that “*there is no legal basis to support the imposition of a Statutory Consumer Protection Code for Credit Unions in respect of their core services*”..

Despite the claim made in your Introduction that “*The Code for Credit Unions will take into consideration the special structure and voluntary ethos of the Credit Union Movement*”, it is clear that the Code more or less lifts sections from the existing Consumer Protection Code and places them into the Voluntary Consumer Protection Code for Credit Unions. No consideration has been taken into the “*special structure and voluntary ethos of the credit union movement*”.

**KNOWING THE MEMBER** Page 12 of the proposed Voluntary Code:

Section 22. “*Before providing a product or service to a **member**, a **credit union** must gather and record sufficient information from the **member** to enable it to provide a recommendation or a product or service appropriate to that **member**. The level of information gathered should be appropriate to the nature and complexity of the product or service being sought by the **member**, but must be to a level that allows the **credit union** to provide a professional service.*”

However the above requirement will not apply where:

(ii) “*the **member** has specified both the product and the product provider and has not received any advice*” i.e. an “execution only” service. This is most applicable to financial institutions that offer a whole range of diverse products. Our **CORE SERVICES** are Savings and Loans.

In respect of Loans, our members will tell us what they want, but they stop short at telling us that they want this product from us as the product provider. They would assume that we would realize that. Contrary to foisting unwanted loans on our members, an important part of our service is advising members not to over-stretch themselves financially. We pride ourselves in facilitating **responsible lending**.

We believe that this requirement should not apply to lending. It would create substantial paperwork and additional expense. It may make it uneconomic to issue

small loans, which would potentially militate against those who are the most vulnerable in our society.

Section 24 of the Consumer Protection code “Knowing the Consumer” does not apply to a “basic banking product or service.”

We would contend that like banking, loans issued by a Credit Union should be exempted from the above requirement.

SUITABILITY Page 13 of the proposed Voluntary Consumer Protection Code:

Section 26 “A **credit union** must ensure that, having regard to the facts disclosed by the **member** and other relevant facts about that **member** of which the **credit union** is aware:

( c ) where it recommends a product to a **member**, the recommended product is the most suitable product for that **member**.”

Credit Unions do not recommend loans to members, they request them. The terminology used is straight out of the Consumer Protection Code where Investments, Pensions, Insurance and Protection Policies are being recommended to clients. Credit Unions acting as Insurance or Investment Intermediaries abide by that code, but it is neither practical nor in any way beneficial to our members to impose such a code on our Core Services.

Section 30 of the Consumer Protection code “Suitability” does not apply to a “basic banking product or service.”

We would contend that like banking, basic core services offered by a Credit Union should be exempted from the above requirement.

Compliance With This Code -Page 19 of the proposed Voluntary Consumer Protection Code:

Section 45 states that : “A **credit union** must have adequate systems and controls in place to ensure compliance with this Code.”

We must provide information in respect of our compliance with this Code to the Financial Regulator when he requests it, in the period of time and format specified by the Financial Regulator, and indeed make ourselves available to meet with the Financial Regulator whenever he requests a meeting in respect of this **Voluntary** Consumer Protection Code.

CHAPTER 4 LOANS Page 22 of Voluntary Consumer Protection Code: states that “A **credit union** must advise members who have defaulted on their repayments of relevant credit counseling services and the contact details for such a service, e.g. name and address of a local Money Advice & Budgeting Service (MABS).”

This is an unreasonable requirement and does not apply to any other financial institution.

CONSOLIDATION Page 23 of proposed Voluntary Consumer Protection Code states: “Where a loan is offered to a **member** for the purpose of consolidating other loans or credit facilities, the **credit union** must provide the **member** with a written

*indicative comparison of the total cost of continuing with the existing facilities and the total cost of the consolidated facility on offer.”*

This section is completely unworkable. Most loans issued by credit unions include the consolidation of existing loans owed by the member to their Credit Union.

General Requirements with regard to Advertising are stated on Page 24 of the Voluntary Consumer Protection Code for Credit Unions. These requirements insist that the Credit Union must clearly show its name and the nature or type of the advertised product or service clearly and not disguise it in any way. We are at a loss as to why anyone would advertise and not have their name and the nature of the product or service clearly identifiable in the advertisement. However Credit Unions will not have to comply with your 15 Advertising stipulations and warnings if the advertisement **does not** refer to the benefits of the product, but only invites the member to come and discuss the product with us.

Despite the fact that you admit there is no Statutory basis for the imposition of this Voluntary Consumer Protection Code for Credit Unions (in respect of their Core Services ), it is most interesting that the word **MUST** appears **104 times** in your Consultation Document.

Ultimately, Credit Unions already apply the vast majority of your General Principles, but the amount of time and personnel that would be required to document everything would have a very negative impact on the quality of our service to our member-owners. We would have situations where every time a member borrows or tops up a loan, we would need to do a Fact-Find and establish why the product they request is the most suitable product for them, write reason-why letters etc., all of which rather than facilitating the protection of our member-owners would merely succeed in frustrating them with longer queues etc.

Our members are not mere consumers. They are member-owners, and they have far more power and say in how their Credit Union is run, than any customer or client of other financial institutions.

We feel the need to ask:

- What added value (if any) will this proposed Voluntary Consumer Protection Code have for our Credit Union member-owners?
- Where specifically is the special structure and Voluntary ethos of the Credit Union Movement outlined in this proposed Voluntary Consumer Protection Code?
- As there is no legal basis for the adoption of this Voluntary Consumer Protection Code, what are the implications for a Credit Union who chose not to adopt this Voluntary Code?

By adopting this Voluntary Code, we won't be offering our members a better service, but we will become swamped in bureaucratic red tape and unnecessary recording exercises to the detriment of the great service we offer at present.

Whilst our Credit Union appreciates the objective of the Document we are very much of the opinion that it fails in one of its primary tenets i.e. "*applying an appropriate Code for credit unions.*"

Credit unions are member centred and are in business solely for the betterment of its members. The concept of providing member protection is not something that needs to be forced on credit unions. It is something that is done as a matter of course.

We believe that the Voluntary Consumer Protection Code for Credit Unions is not the proper vehicle to enhance protection.

On behalf of Ballypnehane Credit Union Limited

---

Blanche Ronayne  
Chairman