

Second Consultation on Review of Consumer Protection Code Consultation Paper CP 54

In response to your Consultation Paper CP54 seeking comments on certain proposals, An Post would like to offer the following comments below.

i) Basic Payment Account

In recent weeks, the Department of Finance published a report for consultation on a *Strategy for Financial Inclusion*. The Central Bank is a member of the Steering Group involved in the preparation of this report. We strongly support the financial inclusion agenda and the development, as proposed, of a basic payment account as described in the *Strategy for Financial Inclusion*. In order to support this proposed Strategy, we are now proposing a number of new provisions in Chapter 3 of the Code relating to the promotion and accessibility of basic payment accounts, while accepting that many rules relating to the operation of a basic payment account will be covered by the EU Payments Services Directive, and any future EU initiative covering the provision of basic payment accounts.

Our response

An Post has over the years played a very significant role in the provision of financial services to all consumers in the state and believe that the provision of a Basic Payment Account may enhance the services to personal consumers but would believe that it needs careful consideration and clearly defined criteria that ensures accessibility to Basic payment Accounts meets the full aims of the financial inclusion agenda.

ii) Complaints Resolution

In light of our recent themed inspection work in this area and our ongoing work with the Financial Services Ombudsman, we are proposing to further extend the requirements on regulated firms in relation to complaints handling and resolution. In particular, we are proposing that regulated firms will be required to analyse complaints in order to identify if any patterns of consumer complaints are emerging. This analysis must be escalated to the regulated entity's compliance/risk function and senior management.

Our response

We agree with the requirement to analyse complaints and for this analysis to be escalated to compliance/risk function and senior management.

vi) Advertising

In CP47, we raised concerns about the amount of information included in the small print in advertisements. We advised that, in our view, key information should not be included in the small print and we requested views on our proposals. Interested parties will note that we have retained, and expanded, the provision that key information must be included in the main body of an advertisement. In addition, this information must not be obscured or disguised in any way.

The definition of key information has been amended to mean *'any information which is likely to influence a consumer's actions with regard to a product or service.'* We also included a provision restricting the type of information that can appear in the small print of an advertisement. Where small print or footnotes are used, they must be of sufficient size and prominence to be clearly legible and should not be directly related to the product or service being advertised. In addition to the concerns that we raised in CP47 on small print in advertisements, the Central Bank remains concerned that the advertising of financial products and services is not meeting the overriding requirement that advertisements must be clear and not misleading and must contain all relevant information. Consequently, a number of additional provisions are now proposed for regulated firms to adhere to, including requirements that:

- a) advertisements must clearly state any qualifying criteria of a product or service,
- b) warnings must appear alongside the benefits of the product to which they refer,
- c) the annual equivalent rate set out in an advertisement must not be misleading and any assumptions used to calculate it must be reasonable and up to date, and,
- d) more detailed disclosure requirements be included in advertisements.

Our response

While we agree that key information should be contained in an advertisement, products often contain detailed "Terms & Conditions" setting out the qualifying criteria and the purpose of the advertisement is to seek expressions of interest from customers and therefore subsequent documents\communications with consumers such as Terms of business etc. should clearly state the full details of products\service.

vii) Errors Handling

Any consumer affected by a charging or pricing error identified in a regulated firm must be refunded in the most efficient and speedy manner possible. While accepting that there may be systems issues around the identification of both the error itself, and the resulting population of consumers affected, our view is that errors need to be identified, rectified and resolved promptly. Consequently, while we have taken on board some of the operational issues identified in responses to CP47, we remain of the view that the requirements as proposed, with some amendments, must be implemented in the interests of consumers who may be impacted by errors.

Our response

We agree that errors must be resolved and rectified as a matter of urgency. We would be of the view that only material errors be subject to reporting requirements and that a definition of "material errors" be included in the code.