



“Response to Second Consultation on Additional Consumer Protection Requirements for Debt Management Firms”

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Section 2 : Additional/Emerging issues

2.1 Client leads

13.6 A debt management firm must not pay a fee, commission, other reward or remuneration to any person in respect of client leads or referrals.

Question 1 : Do you agree with approach that we now propose taking with regard to client leads?

Prima Finance Ltd an Irish registered limited company having registration number 327668 (the “Company”) makes the following points in relation to clause 13.6. The Company is regulated by the Central Bank as a payment institution and a debt management firm (see reference C11208).

The Company notes the approach taken by the Central Bank with respect to client leads. Indeed the Company supports any attempt to regulate or eradicate from the market “lead generator firms” whose sole purpose is to harvest data belonging to vulnerable persons or otherwise target vulnerable persons. However, a distinction should be made between that type of activity and other types of relationships which can and do exist in the provision of financial services in the market.

It can often be the case that an entity having built up a degree of expertise, sees the merit of extending that expertise nationwide.

Therefore, at times, an organisation may wish to deliver its services through the use of suitably qualified agents/representatives that are regulated and controlled by the Company for such a specific area, i.e. debt management services. The Company would contend that there is no inherent difficulty in an organisation adopting that model and in fact, the model is an ideal manner through which high quality service and advice can be delivered throughout the country to people in desperate need of such highly specialised and regulated advice.

The Company would suggest that this model would be based on the following principles:-

- The agents/representatives (referred to here as “Representatives”) appointed by the principal organisation (referred to here as the “Central Organisation”) would be entities regulated by the Central Bank or supervised by a professional body. Therefore, the Representatives appointed by the Central Organisation should fall into the category of for example, multi-agency intermediaries, mortgage intermediaries, personal insolvency practitioners, Solicitors or Accountants;
- Strict supervisory controls should be placed over the Representatives by the Central Organisation, for example, the Representatives would be appointed pursuant to a written contract, the Central Organisation would deploy training to the Representative and policies and procedures would be formulated setting out their activity;
- The role of Representatives should be merely as introducers. Therefore their function would be to conduct an initial fact find, collate the financial information, perform the necessary customer due diligence and pass the information to the Central Organisation. Thereafter, the Central Organisation would be the body which would have the direct relationship and responsibility for that client, that body being regulated by the Central Bank as a debt management firm.

In the Company’s view the above model contains with it a sufficient degree of control and supervision to prevent the harm that an outright ban on payment for referrals is seeking to achieve.

It is in the interest of the market and the service to both the vulnerable and non-vulnerable clients that they are directed towards those who have the required qualifications, authorisations and experiences of accessing client’s personal finances and negotiating with all the financial institutions in the market. The more experience that is gained by a central organisation the better it is placed to provide comprehensive advice to its clients. There is nothing inherently wrong in paying a commission to representatives in that circumstance, who refer a distressed client to an organisation that has the expertise and experiences that can advise and assist such distressed clients. In addition, there would be no additional costs incurred by the client, as the same fees would apply to cover the actual time involved in collating the required financial information regardless if that is done by the introducing representative or the regulated firm themselves. It’s the distribution of these fees that would vary between professionals depending on who gathers the client information and

supporting documents. That type of arrangement is a far distance from entities which merely seek out individuals. Surely, in circumstances where a customer has attended their Solicitor, Accountant, Personal Insolvency Practitioner or financial advisor seeking advice they should be permitted to avail of specialist advice if that is being requested or recommended.

In any regulatory system whereby a representative would refer it could be stipulated that the representative clearly outline to clients, its role, obligations to the client, the charges being imposed by the representative and/or the commission sharing arrangement with the debt management firm, if any. The Company would suggest that the representatives which are allowed to introduce clients to a regulated debt management firm would not be permitted to provide advice and would only act as a mere introducer. The role of the introducing representative would merely be to collect initial information and set up the direct engagement between the debt management firm and the client. Once that initial step is over, the debt management firm would have the direct relationship with a client and full responsibility for that relationship.

There is nothing untoward in permitting the remuneration of the introducing representative for his/her time involved in introducing the client to a debt management firm and also collecting the initial information and passing that client on to a specialist debt management firm and when there would be no additional cost to the client. In fact such introducing representatives, as set out and proposed herein, are broadly the same as one of the company's employees. Given the control and oversight employed by the Central Organisation.

In conclusion it is the Company's view that the area of debt management is an evolving market. As the effects of indebtedness stretches right across the country, clients are better served through dealing with regulated centres of expertise. A useful tool in the development of centres of expertise could be through a representative network. The role of such introducing representatives, as outlined, are very specific and controlled within this process by the authorised entity and are governed under an agency agreement-contract. The central organisation would be fully responsible for vetting and appointing these introducing representatives at the outset, ensuring they have the required qualifications, skills and competences to conduct this financial review and explain the firm's services. These introducing representatives do not provide any advice to a client at any stage or engage with the client's creditors.

Not only that, a referral system would prevent those who lack detailed experience in the area (such as solicitors, accountants, mortgage brokers etc.) from providing advice from their general experience and would as a corollary, provide an incentive to those who have access to clients in distressed situations to refer them to those best place to provide more specialist and appropriate advice. While one would envisage that third party operators such as accountants, solicitors and mortgage brokers, would refer their clients to centres of expertise solely out of their interest for clients, that may be somewhat altruistic. Having in

place a regulated commission sharing arrangement would compensate such individuals for their time and also provide sufficient incentive to ensure that vulnerable clients were placed in the hands of those best positioned to serve them, while costing the client nothing extra. In conclusion, this proposed amendment would make high quality and specialise debt management advice more accessible to individuals that require these services in a highly controlled and regulated way.

We thank you for taking the opportunity to consider the within proposal.

Re 13.7 A debt management firm must not contact a consumer whose details were referred to it by a person unless the consumer has given his or her specific consent to that person for his or her details being referred to that specific debt management firm.

The Company agrees with this statement.

2.2 Payment of debt management fees by credit.

The Company agrees with the proposed approach here.

2.3 Cooling-off period

The Company agrees with the proposed approach here.

2.4 Additional information and contact with consumers

The Company agrees with the proposed approach here.