IRISH BANKING FEDERATION

CONSULTATION ON ADDITIONAL CONSUMER PROTECTION REQUIREMENTS FOR DEBT MANAGEMENT FIRMS

CONSULTATION PAPER CP 75

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1. Introduction

The Central Bank of Ireland published Consultation Paper 75 (CP 75) in November 2013. CP 75 includes proposals intended to provide a cohesive package of consumer protection measures for those consumers who wish to avail of debt management services.

The Irish Banking Federation (IBF) has prepared this document in response to specific questions included in CP 75. In particular, the IBF response is in relation to questions included in (ii) Charging for debt management services and transparency of charges, (iii) the financial assessment process (iv) Conflicts of Interest and (v) Review of debt management arrangements.

2. IBF response

As indicated in the introduction, the IBF response is focused on specific sections and questions raised in the consultation paper. These questions are set out in the document along with the IBF response.

<u>Question 4:</u> Do you think that these information requirements for improved transparency of charges are sufficient? If not, please outline any further measures you think are necessary in this area.

There should be a clear requirement for Debt Management Firms (DMFs) to provide a consumer, on a regular basis e.g. monthly, quarterly etc., with a detailed statement of the monies received and distribution of these monies including charges applied. The statement should include confirmation that the funds have been transferred to Creditors in line with agreed arrangements.

The clarity of the 3rd party charging structure is a matter that has arisen for consumers in the past and the approach recommended should address one of the issues facing the consumer when availing of the services of DMFs. While it would place an additional obligation on DMFs, it should also address consumer concerns regarding transparency of charging structures.

<u>Question 5</u>: Do you think that there should be a prohibition on the payment by means of credit of fees or charges for debt management services?

The IBF believe that a prohibition on the payment by means of credit should apply. Credit should not be used as a means of payment due to potentially high interest charges applicable. This method of payment is likely to have the unwelcome effect of pushing the consumer into a further state of indebtedness. It would, in our view, be more appropriate to follow the approach taken through the insolvency process where the fees and costs of the Personal Insolvency Practitioner can be expected to form part of the agreed arrangement.

Also, it is unclear how the application of additional indebtedness could comply with the requirements under the Consumer Protection Code (CPC) to act in the best interests of consumers, particularly where alternatives of free debt advice providers such as the Money Advise and Budgeting Service (MABS) are available.

<u>Question 6:</u> **Do you agree that a standardised method of financial assessment is required for this section? If not, please explain why?**

The IBF members support the use of a standardised method of financial assessment.

<u>Question 7</u>: In respect of the potential options for a standardised method of financial assessment as outlined above, which is your preferred approach and please, explain why?

We agree that a level of consistency is important for the consumer and to this end we believe that the method adopted for this sector should mirror that used by the Money Advice and Budgeting Service (MABS) i.e. the Standard Financial statement "SFS". This is based on the experience of introducing a SFS as required under the Central Bank Code of Conduct of Mortgage Arrears (CCMA). The SFS is completed by borrowers who are currently or who may at some point in the future experience difficulty meeting their mortgage payments. The document was developed in conjunction with the MABS and has been introduced across all their offices. The SFS provides a thorough assessment of all income, expenditure, assets and liabilities and is a widely used document for customers in difficulty.

IBF Members believe that it is reasonable to use the SFS, both from a borrower and creditor perspective, as the basis for engagement with Debt Management Firms.

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***Question 8:** What alternative measures do you think we should consider to achieve a robust and holistic approach to financial assessment?*

Based on the response to questions 6 and 7, the IBF believes that the SFS is the most robust and holistic approach to financial assessment.

***Question 10**: Do you think these protections are sufficient to address the potential conflicts of interest risks identified above? If not, please outline any further measures you think are necessary for this particular sector.*

Given the potential for a conflict of interest in this sector, the proposal does not go far enough. Requiring the disclosure of fees, commission etc. is an appropriate step but there should be an obligation to clearly indicate where such payments may represent a conflict for the Debt Management Company. The recommendation of the IBF is that there should be a requirement for an explicit link between Provision 3.29 in the CPC and 4.5 (c) as included in Appendix A of the Consultation Paper, Additional Requirements for Debt Management Firms.

***Question 11:** Do you agree with the proposed approach relating to reviews of debt management arrangements as outlined above? If not, explain why.*

IBF is in agreement with the proposed approach.

***Question 12:** Do you think that:*
i) Such review should be allowed only at a consumer's request; or
ii) Such review should be allowed only when there is a change in a consumer's circumstances; or
iii) No limitations should be imposed on debt management firms in relation to undertaking reviews of debt management arrangements; or

iv) Should there be an obligation for periodic reviews without specifying the frequency of these?

The requirement to undertake a review of debt management arrangements should be at the instigation of the consumer. This will ensure that unnecessary costs are not incurred where a debt management arrangement has been entered into and is operating satisfactorily.

Where a review takes place this should only be when there is a material change in the consumer's circumstances. In addition, any charge for the review should be made known to the customer in advance to ensure transparency of the process.