PIBA submission on Additional Consumer Protection Requirements for Debt Management Firms
Consultation Paper CP 75

FEBRUARY 2014

The Professional Insurance Brokers Association (PIBA) is the largest representative body for financial and insurance brokers with over 865 member firms throughout Ireland. This submission outlines a response to the questions posed in the consultation paper in relation to the Additional Consumer Protection Requirements for Debt Management Firms, CP 75, on behalf of our members.

Question 1: Do you agree that the current advertising requirements under the Code adequately protect consumers from the potential for consumer detriment associated with debt management services?

PIBA believes that the current advertising provisions as set down by the Consumer Protection Code adequately protect consumers availing of debt management services.

Question 2: If you believe that additional advertising rules should be introduced for the activity of debt management services, please outline what measures you think should be considered.

PIBA does not believe that any additional advertising rules should be introduced.

Question 3: Do you agree with the proposed approach relating to client leads as outlined above? If not, please explain why?

Yes, PIBA agrees with the proposed approach in relation to client leads.

Question 4: 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.

PIBA agrees with the principle of transparency in relation to charges, however it should be permissible for the debt management service fees to take the form of a percentage of the final write down of debt. This exact figure would not be determinable prior to providing debt management services but full disclosure would be made to the client of the exact percentage of the write down to be charged and this would be agreed with the client before the services would be provided.

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

PIBA does not agree with the proposal that there should be a prohibition on the payment for debt management services by means of credit. Consumers who seek these advises will typically have no disposable cash and therefore will have no means to pay for debt management services despite the fact that they are in need of such advice. Payment as part of restructured credit may be the only means by which the consumer can pay for these services.

Question 6: Do you agree that a standardised method of financial assessment is required for this sector? If not, please explain why?

Yes, PIBA agrees that a standardised method of financial assessment is required.

Question 7: 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?

PIBA believes that the Insolvency Service of Ireland's Prescribed Financial Statement should be used as the standardised method of financial assessment. This prescribed financial statement is very comprehensive and will gather all relevant information.

It will also be beneficial where the cases progresses into insolvency as the consumer will already have completed the financial statement and so will avoid duplication.

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

PIBA would suggest that the guidelines as outlined on the Insolvency Service of Ireland's website in respect of reasonable living expenses and working sample arrangements would be useful.

Question 9: Do you agree with the proposed requirements outlined at a), b) c) and d) and with the option outlined at e) above? If not, please outline why.

PIBA feels it is important that a distinction is made between a statement of suitability for life assurance, investment and pension products and a statement of suitability for debt management services. The recommendations made by a debt management firm in a statement of suitability may take the form of a number of different options available to the consumer. It is not likely that the consumer will simply be able to choose one particular option. The outcome will be the best negotiated option with the relevant lenders/creditors and is dependent on the lender/creditors agreement. This is clearly a different scenario when compared to a statement of suitability whereby one particular product by a certain provider is recommended and the consumer can obtain that product.

PIBA does not agree with proposal e) in relation to imposing a mandatory 5 day period for consumers to absorb the information provided. We feel that this is not required as again, it needs to be recognised that in practice for debt management issues, the process in itself is long and involves negotiations with lenders/creditors so the decision will not be made immediately. It takes some time for lenders/creditors to agree revised terms.

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.

PIBA agrees that the proposed protections are sufficient to address potential conflicts of interest risks. For the most part, PIBA feels that they are really only relevant where lenders/creditors are paying for debt management services.

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

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?

PIBA believes that no restrictions should be put on debt management firms in relation to contacting their clients in relation to debt management services. It is important that they should be allowed to contact the consumer to ensure that the solution put in place is still workable.

Reviews should be at the consumers and the debt management firm's agreement depending upon the amount of debt.