Consultation Response

StepChange Debt Charity

StepChange Debt Charity response to the Central Bank of Ireland second consultation on additional consumer protection for Debt Management Firms

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Introduction

StepChange Debt Charity welcomes this opportunity to respond to this Central Bank of Ireland second consultation on additional consumer protection requirements for debt management firms.

StepChange Debt Charity is the largest specialist debt advice charity working across all four UK nations. In 2013 our telephone helpline and online debt remedy tool helped over 500,000 people to access free, impartial and high quality debt advice. We are also the UK's largest provider of free to client charitable debt management plans (DMPs), having introduced the DMP concept to the UK in 1993. At the end of 2013 our DMP's were helping over 145,000 people to make affordable and sustainable repayments to their creditors. In 2013 we helped people pay £338 million off their debt.

We believe that our experience of helping people deal with problem debt makes us well placed to comment generally on consumer protection measures for debt management services. Our answers to the consultation questions are set out below.

Question 1: Do you agree with the approach that we propose taking with regard to client leads? If not please explain why.

StepChange Debt Charity strongly agrees with this approach. We regularly see examples of consumers who have received unsolicited real time contacts from commercial debt management providers and suffered detriment as a result. In the UK market the scale of unsolicited marketing contacts for debt management has grown to huge proportions - our research estimates that around 31 million people have received unsolicited calls or text for debt management services.

Not only does this result in people entering into unsuitable, expensive and poor quality debt management agreements, but financially vulnerable people can experience these unsolicited calls as a form of intimidating harassment. Our research found an estimated 3.2 million people were afraid to answer their phone as a result of unsolicited marketing contacts.

StepChange Debt Charity clients tell us that once unsolicited marketing calls begin, they can quickly become overwhelming, as the following experiences of one of our clients shows:

> 'As soon as I made enquiries about sorting out our debts they were relentless. You put your information on a website and it's almost instantaneous, calls and texts from various companies. And if you said you were thinking about it, they just swarmed…It was totally exhausting, very very stressful, my mobile was going off at work, I was getting into trouble at work for taking personal calls, and there was no respite at home. You're trying to relax at the end of a working day and phone keeps going off, you're just hounded and hounded until you give in.'

A key cause of this detriment is the way that lead generators can gather client details and then pass or sell these on to multiple firms, resulting in the ‘swarm’ of unsolicited contacts described above. If Irish consumers are experiencing similar problems, then we believe that the rule proposed in 13.7 of the code is both sensible and necessary.

Question 2: Do you agree with the approach that we now propose taking with regard to credit as a means of paying fees for debt management services? If not please explain why.

StepChange Debt Charity would agree with the rule in 13.4 that would prohibit a debt management firm form recommending, arranging or assisting a consumer to arrange credit for the purpose of paying fees.

However we believe that the text of 13.5 could be strengthened. Where a debt management firm is made aware that a consumer intends to use credit to pay fees, this should alert the debt management firm to reconsider whether the proposed plan is really suitable and affordable for the consumer. The debt management firm should be required to re-check the suitability of the plan and reconsider the structure and timing of charges to ensure that a consumer does not need to extend their indebtedness further in order to meet them.

Here we also note the recent FCA research on consumers in vulnerable circumstances. The FCA do rightly point out that many people do not seek help with their debts soon enough, and around 50% of StepChange Debt Charity clients polled told us that they had been worrying about their debts for over a year before seeking help. But there is no strong suggestion that inability to pay the fees of fee charging debt management firms is responsible for this. Instead the FCA outline a process that our own research confirms, where consumers debts spiral upwards, often in consequence of using credit to try and cope with their financial difficulties. Our concern is that debt management firms accepting credit payment for fees may be adding to this process.

Question 3: Does the approach that we now propose provide sufficient protection for a consumer?

StepChange Debt Charity does not believe that the approach proposed in 13.18 and 13.19 do provide sufficient protection for consumers. In particular we are concerned at the waiver provisions in 13.19. Consumers seeking help with their debts will often be at a point of crisis and this may seem like a compelling reason to agree to take whatever help is available. In these circumstances it is not hard to see how a consumer could be persuaded by a firm to waive their right to a cooling off period when this is not actually in the consumer's interest.

Question 4: Do you agree that the above protections are appropriate and adequate to ensure transparency and control for the consumer in relation to the progress being made to resolve their problems? If you disagree, please provide the reasons.

StepChange Debt Charity broadly agrees that the provisions in 31.21 and 31.22 provide consumers with some necessary protection. However it is not clear that these provisions will be adequate to prevent consumer detriment, given the inherent uncertainty of the negotiation process.

We are not convinced that provision 13.17 will provide adequate protection for consumers. The long experience of attempts to control unfair practices in the UK debt management market have repeatedly shown approaches based on fee transparency alone to be unsuccessful. Consumers are likely to continue to experience detriment unless regulatory controls are introduced on the amount of fees that can be charged, the circumstances in which they can be charged and the circumstances when they should be refunded.