

July 2015

Consumer Panel Position Paper: Consumers as Co-regulators

Introduction

The relationship between financial services providers and consumers is widely acknowledged to be asymmetrical. As the Consumer Panel noted in our 2012 position paper¹, information, capability and resources are loaded in favour of the firm; levels of risk sharing are unknown to the consumer; and firms exploit natural human biases. Add to this the complex nature of financial products and services and it can be exceedingly difficult for consumers to participate in the market effectively. Trust has been eroded.

This is despite the best efforts of the FCA and its predecessor, the FSA. It is clear, for instance, that the tougher enforcement regime introduced in 2010 contributed to a leap in the scale of fines and other penalties imposed by the financial regulator on the financial services industry.² However, the balance of power still rests firmly with firms rather than consumers.

Consumers could help make financial and other sanctions bite harder, effectively acting as co-regulators, were they to shun miscreant firms and favour with their custom the well behaved. Such action – or the threat of it – could amplify the impact of penalties or poor service levels by giving firms a clearer incentive to improve behaviour and to treat customers fairly, thus driving competition.

But to act in this fashion, consumers need information about firms' conduct and quality of service. The Panel commissioned Collaborate Research to conduct qualitative research to find out whether there was consumer appetite for this kind of information and what, specifically, consumers want to know about firms when they are making decisions about using them³. This showed that consumers were enthusiastic about, and could see themselves using, information about market conduct and service level provision to help them make decisions about firms, provided the information was authoritative, impartial, depicted in a simple way and incorporated into existing decision making tools, like comparison tables. The research participants also believed that information provided in this way would improve firm behaviour and culture.

Harnessing the collective power of the consumer to improve firm behaviour

The impact on consumers' behaviour of firms being fined seems negligible, with few people switching away from reprobate firms. This limits the effectiveness of the FCA's supervisory and enforcement work in driving changes in the market. It also hinders competition that works in favour of good consumer outcomes. The Panel has therefore been concerned with the question of harnessing the collective power of consumers to improve firm behaviour.

The Panel research shows that the FCA's communication of firms' behaviour is not as effective as it might be. Indeed, our research participants felt that all firms were as bad as each other and made financial decisions against a backdrop of mistrust.

"If you're talking about ethics you may as well put your money under a mattress and be done with it." (London, under 45, ABC1)

¹ Consumer Panel position paper on Consumer Responsibility

² Financial Services Authority (2010), "Enforcement financial penalties", Policy Statement 10/4.

³ Collaborate research (2015) "Consumers as co-regulators"

Consumers find the market complex, with an ever-increasing number of providers selling similar products, making it harder to make an informed choice. Many consumers use short-cuts. This might be 'best buys' on comparison tables, or the first firm in the table they have heard of. People rarely consider the post-sale experience. At best people find financial decision-making tedious, at worst anxiety-inducing.

"The market's so big as well. I don't know about everybody else but when I was younger and we went for our first mortgage they didn't ask many questions. You walked into the first building society and you took your wage slips and before you knew it you had it. And you trusted them then." (Edinburgh, 45+, ABC1)

Competition which benefits the consumer is weakened in such a market because the focus is on a headline product price rather than on the selection of a firm which is responsive, trustworthy and meets expectations post-sale. The issue is particularly concerning where products or services being purchased are based on trust and switching away may not be immediately possible.

Filling the gap in the market

In the research people felt that information about firm conduct should be available to them and identified this as a clear gap in the market. Currently the information consumers would like is unavailable (eg claims ratios), difficult to find (eg fines and redress) or difficult to interpret (eg complaints data).

To be of most use, consumers are looking for information about both the firm's regulatory history and proxies for the post-sale service experience, in particular those that cover accessibility and quality of response. Participants cited complaints data, claims ratios (in relation to insurance) and data security as potentially helpful for making decisions about which firm to do business with. Many had experienced fraud on their account or had the impression that their data had been sold on, thus data security was picked up by all 8 focus groups as being very important.

"I think it's good to know your data is safe and not going to different places and it's not being sold on to different companies." (London, under 45, ABC1)

Participants were also strongly interested in aggregated consumer survey data. However, they were against 'TripAdvisor' style consumer reviews for financial services. While useful for other services, such as holidays, financial services consumers thought such services were unreliable.

"A lot of people's bad experiences might be silly things that aren't really important to us." (Leicester, under 45, C2D)"

The precedent for regulatory action

The FCA already requires firms to publish complaints data and could require firms to publish additional information. Ofcom publishes factual service level data so that consumers can compare different aspects of telecoms services. And The Food Standards Agency has gone further. It developed both the 'Scores on the Doors' hygiene measure for eateries, as well as 'Red, Amber, Green' ingredient labelling for supermarket foods. Both schemes have enabled consumers to engage with previously 'hidden' information and make more informed decisions at the point of sale.

No single measure or index can ever tell the whole story: it is only an indicator of a firm's overall performance and a snapshot at a moment in time. Information, regularly updated (annually or six-monthly) is, however, better than no information at all, especially in such a complex marketplace where the power lies predominantly with firms rather than consumers.

Consumers were in favour of developing a system that works well, if not perfectly, for them, and which provides some balance to the asymmetry of power while ultimately delivering benefits to the industry as well. The existence of an authoritative measure like hygiene ratings has been enough for eateries to want to improve their standing vis-a-vis their competitors. According to a two-year study, published in April 2015 by the Policy Studies Institute at the University of Westminster⁴, that initiative has been a success with food hygiene having improved since its introduction. Just implementing the system itself improved conduct irrespective of whether consumers have used it or not.

⁴ http://www.psi.org.uk/site/news_article/food_hygiene_ratings_shown_to_improve_standards

Making the information meaningful

Providing more information is not the answer. People are easily overwhelmed by 'too much' information. It is therefore important that the FCA considers how best to package data so that it can be accessed and used easily by consumers. For instance, some research participants felt that publishing the number of complaints received by providers could, in the absence of contextual information, be misleading as this may be due to the size of the firm or complexity of the product offering rather than poor service.

In our research, consumers wanted impartial and authoritative information from a trusted source. They also showed a strong preference for a single composite index or small set of indices that could be developed into a recognisable brand like the Food Standards Agency hygiene ratings or energy efficiency ratings. They wanted the aggregate information to be depicted in a straightforward visual way, such as star ratings or similar. The measure should be comparable across providers and also available for incorporation into other decision-making channels, like price comparison websites.

*"If you've got two that are very similar in price and what they're offering but they differ in the ratings, then you're going to go with the better one aren't you?"
(Leicester, under 45, C2D)*

A composite measure which features both conduct information about a firm (such as fines and redress) and service level information (for instance, complaints data) has merits. Bad conduct related to issues like Libor manipulation could, for instance, have an impact on an overall rating which includes service level information, even where the misdemeanour (in this case Libor rigging) had no impact on the service (eg, how well a complaint was dealt with). A composite measure would therefore link several issues that might in reality be unrelated. It would help make issues which seem to consumers irrelevant suddenly more relevant by linking to service level information which is clearly what they care about. It would create a physical link between the 'global' scandals that consumers struggle to engage with and salient 'local' information that people can understand, even where there is no causation or correlation. This could be particularly beneficial to the FCA in driving up conduct standards among firms, helping the good firms to differentiate themselves in a way that is meaningful to consumers. As the BBA notes in its report, Promoting Competition in the UK Banking Industry (2014)⁵, "More transparency will improve the efficiency of the market and lead to customers making informed decisions... From a BBA perspective we believe competition is about enabling customers to exercise informed choice between a variety of banks. That means increased transparency...."

The Panel has identified three types of data that it believes the FCA should consider publishing or making available:

1. Regulatory history, including fines for breaches of regulatory rules and redress packages
2. 'Hidden' service level data which can provide proxies for accessibility and quality of response, for instance information like whether the firm has a UK contact centre, amount of time spent waiting for a phone call to be answered or where data are held.
3. Aggregated consumer views available from the FCA's existing tracking surveys or through a new, syndicated, survey to which the FCA could require all firms to subscribe

Why the FCA should do this?

Consumers in the research did not have a fixed view on who should publish information about firms: they were concerned only that it should be authoritative and impartial. There are advantages to the FCA of not only publishing data but also instigating the development of a composite measure. It would afford the FCA:

- The opportunity to reframe its formal regulatory activity in a way which is objective and relevant to consumers;
- The potential to reduce the current information and power asymmetries in the market between firms and consumers; and
- A way to help firms differentiate themselves positively.

It would also be a new 'tool' for the FCA to raise standards in the industry. Being in control of the packaging of information to the consumer would also enable the FCA to monitor and adapt the measure as its impact on the market became clear.

⁵BBA - Promoting competition in the Banking industry (2014) Barty & Ricketts

Conclusion

Current decision-making models rely heavily on headline price and short cuts. Consumers would like information about firm behaviour and quality of service, which is currently not available to them. However, it must be provided by an authoritative and impartial body and be packaged in a salient way that consumers can engage with easily and use to compare firms. By taking the lead to require firms to publish data and in instigating the development of a composite measure the FCA would increase the effectiveness of its enforcement and supervision action, communicate more effectively with consumers and harness their power as 'co-regulators' driving competition in the market to the benefit of both customers and providers.

The Panel recommends that the FCA should:

1. Evaluate its communications with consumers and assess how they could be used more effectively to harness the power of consumers as co-regulators and promote competition that benefits consumers.
2. Determine which service level proxies it should require firms to publish, alongside data about firm conduct and how these can be made most accessible to the public. It should also improve its website to provide a comprehensive, easily navigable source of chronological information on all relevant aspects of firms' regulatory history (fines, redress etc).
3. Instigate the development of a simple, accessible measure or measures that would enable consumers to differentiate between firms that are likely to treat them well post-sale.