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CONSUMER PANEL POSITION ON THE INSURANCE MEDIATION DIRECTIVE¹

The Consumer Panel

The Panel is an independent statutory body. Its main purpose is to ensure that the UK's Financial Services Authority (FSA) promotes fairer outcomes for consumers during policy development. The Panel also takes a broader role in advising European institutions and the UK government on financial services regulation and legislation

1. The ECON rapporteur's report on IMD II (Werner Langen)

Overall position: Langen's recommendations strip out a significant range of consumer protection issues which have been hard fought elsewhere, particularly in the MiFID negotiations. It would be a serious setback for consumers all over Europe if these were allowed to go through. The lack of coordination with the PRIPs and MiFID work leaves open the possibility of gaming and arbitrage.

Scope. (Amd 2) We support the amendment. We agree with the removal of loss adjusters and claims management companies from scope - this never sat well with a proposal which relates to the sales process.

Scope. (Amd 4) We do not support the amendment. The exclusion of providers whose main professional activity is not the sale of insurance products (eg travel insurance) creates loopholes and removes the level playing field.

Status disclosure. (Amd 10) We do not support the amendment. 'Considering', rather than introducing, disclosure of status, remuneration and structure of remuneration is weak. Although disclosure alone is not sufficient to prevent conflict of interest, the information must still be provided or the customer is not receiving a clear picture of what they are paying.

Honest and professional advice. (Amd 13) We do not support the amendment. There is no justification for deleting the requirement for 'honest and professional advice' and this sends out entirely the wrong signals about commitment to consumer protection.

Extra requirements. (Amd 17) The statement that 'any additional provisions add only 'limited' extra administrative burdens' gives an inappropriate emphasis. The extent of the administrative burden should be a secondary factor to consumer protection and the prevention of mis-selling, not a limiting factor. We do not support the amendment.

Cross-selling (Amd 18). The definitions of cross-selling practices in this amendment need to be clarified. There are situations where bundling of products can be beneficial to the consumer as long as adequate information is supplied, both in terms of convenience and cost, but certain tying practices do distort competition and restrict mobility. We do not support the amendment.

Remuneration of independent advisers. (Amd 19). This should be coordinated with MiFID, but as an absolute minimum commission should be banned for independent advisers in order to avoid conflict of interest.

¹ This position paper should be read in conjunction with the Commission proposals for a recast Insurance Mediation Directive published in July 2012 and the rapporteur's reports for ECON and IMCO.

Continuous Professional Development. (Amd 46). We do not support the amendment. The requirement for intermediaries to update their knowledge and ability was a welcome addition and should not be removed.

Qualifications (Amd 51). It is important that national bodies should be allowed to require higher standards in order to maintain current levels of professionalism. We do not support the amendment as worded.

ADR (Amd 53). We support the deletion. Deleting the requirement for decisions to be 'not binding' is welcome, especially if the same is applied to PRIPs.

Professionalism (Amd 59). We do not support the amendment. The requirement to act 'honestly, fairly and professionally in accordance with the best interests of its customers' is the basis of the professional relationship and we strongly disagree with its removal. This sends out the wrong message about the need for honesty and fairness.

Fees and commission (Amds 66-72). We strongly disagree with deleting the requirement to disclose details of fees and commission. There is ample evidence that inappropriate remuneration structures can lead to poor consumer outcomes. For example, one firm identified in research carried out by the FSA in the UK² had an incentive scheme where advisers were paid commission on products sold over the course of the year. If they reached a series of targets, they could lock in an enhanced commission of up to 35% for the whole of the next year. In this case the interests of the adviser were clearly more closely aligned with reaching the targets than meeting the customers' needs.

Credit insurance policies (Amd 81). We do not support the amendment. The requirement that loans can be made 'subject to the contracting of a credit insurance policy' and 'refused where the consumer fails to take out such a policy' is a highly inappropriate amendment, and given the experience of such policies in the UK, could lead to considerable detriment to suppliers as well as customers. More than £8bn has been paid out in compensation so far, with the Financial Ombudsman Service (UK ADR service) budgeting for a significant increase in PPI cases and almost 700 additional staff in 2013³. Consumers should not be tied to products which they neither need nor want.

Fair, clear and not misleading (Amd 86). We do not support the amendment. Deleting the requirement for all information to be 'fair, clear and not misleading' and for marketing communications to be clearly identifiable is completely unnecessary and again sends out the wrong message about a commitment to consumer protection. It is also out of line with MiFID.

Independent intermediaries. (Amd 87). We do not support the amendment. Removing all the requirements on independent advisers to assess the whole market and not accept third party remuneration is regressive, given the work being carried out on MiFID, and suggesting that consumers cannot differentiate between independent and self-employed advisers is a weak argument at best.

² [Guidance Consultation Risks to customers from financial incentives](#), September 2012, FSA

³ [Financial Ombudsman Service Plan and Budget consultation](#) 2012/13

2. The IMCO rapporteur's report on IMD II (Catherine Stihler)

Scope. (Amd 4) Closer scrutiny of price comparison websites is welcome.

Tying and bundling (Amds 7&8). We agree that the definition of 'tying' and 'bundling' needs to be clarified. Bundling of products, in certain circumstances, can be beneficial to consumers, as long as adequate information is supplied.

Professionalism and CPD (Amds 11 and 12). We have concerns about the creation of 'a body agreed by the national competent authorities and independent from insurance undertakings', and believe that this needs to be worded in such a way that existing organisations already carrying out adequate activity should be acceptable for this role.

ADR. (Amd 14). We agree that the wording 'binding for the insurance undertaking or the intermediary' is an improvement, but would prefer to see the reference to decisions being 'not binding' deleted altogether.

Direct debits (Amd 20). We agree that an exception for regular direct debits is a practical solution.

Conflicts of interest (Amd 24). We support the amendment. We agree with the inclusion of 'identify, mitigate, avoid and remove' relating to conflicts of interest.

Financial Services Consumer Panel
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