

# Compliance Institute response to the Consumer Protection Code Discussion Paper

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On 3rd October 2022 the Central Bank of Ireland (“CBI”) launched its much anticipated Consumer Protection Code (“CPC”) Review Discussion Paper. The Discussion Paper represented an important step in strengthening the CBI’s engagement with the Industry and others on consumer related issues, with the CBI stating that the purpose of the Discussion Paper itself was to facilitate a two-way discussion and engagement with a range of interested parties to enhance broader understanding of the role and work of the CBI in terms of Consumer Protection and to inform the CBI as they continue their review of the CPC.

On foot of the release of the Discussion Paper, the Compliance Institute, through its Consumer Protection Working Group, commenced work on engaging members to collate a response to the Discussion Paper through a Members Survey. While a summary of all feedback the CBI received on the Discussion Paper is expected to be published Q2 2023, the Compliance Institute’s response to the Paper is available online<sup>1</sup>, and below is a summary of the key feedback received from members on the Paper.

## CPC Interaction with the Assisted Decision-Making (Capacity) Act and the Individual Accountability Framework

Several members referenced in their feedback a need for the CBI to issue industry specific guidance on the application of the Assisted Decision Making (Capacity) Act considering the Consumer Protection impact of the Act. In addition, members highlighted the need for consistent language across the CPC and both the Assisted Decision-Making (Capacity) Act and the Individual Accountability Framework with all three having a key focus on Consumer Protection.

## Public Education

Another recurring theme seen throughout the responses received from members was a view that the CBI should consider engaging in public education programmes in order to improve financial literacy across Ireland. Members suggested both financial educations programmes through schools and colleges as well as programmes specifically for those vulnerable members of society.

## Competition & Innovation

It was clear from feedback received that Members agreed that both new providers and new delivery channels are necessary in the Industry to promote healthy competition and innovation. That being said, members also pointed to the barriers that currently exist in this regard, including the current complex authorisation process, the need for a consistent approach to regulation of newly authorised market entrants, and the necessity to accept that some level of teething issues will occur when new delivery channels are being implemented.

In relation to how the Central Bank could address these barriers and further reflect the importance of competition in its regulatory approach, members suggested the following:

Ensuring the application of an equal playing field of standards for all Providers, whether new or established;

Active promotion by the CBI of both innovation and competition in the market, including considering what steps can be taken and initiatives developed to encourage new entrants and new products through both an engaging authorisation process and through the CBI considering further the nature, scale, and complexity of a firm when assessing the adequacy of systems and controls in place as part of the authorisation process;

A review of the Code of Conduct on Switching of Payment Accounts, considering the existence of a historic infrastructure and the practical issues associated with changes to financial arrangements.

A review of Section 149 of the Consumer Credit Act approval process on changes to charges considering the challenges this process poses to competition;

The development of a CPC which is evolving in nature, having regard for the continuous increase in digitalisation across the industry;

A review of the impact of BigTech firms on competition and whether measures need to be implemented to

ensure those firms don't cause barriers to competition in the market; and

The provision of aggregated data to help enable providers to better understand the market prior to entry.

In relation to promoting innovation in the market, the CBI's Paper proposed a number of enhancements to its Innovation Hub, which members welcomed, whilst acknowledging that work is required on clarifying the operational mechanism of the Hub, and on promoting the Hub as a mechanism to examine how new business models can adapt to operate in the regulated environment. Members suggested further enhancements to the Hub, including the introduction of an Innovation Hub Thought Series, video messaging on the Hub, and partnerships with industry to enhance engagement on the Hub. Outside of the Hub then, members put forward a number of suggestions on what should be done to support innovation while ensuring customers best interests are protected, including the need for steps to be taken to ensure that regulation and compliance are not seen as blockers to innovation, and the need for innovative products and services to consider the entire customer journey when mapping out how the customer service aspect will operate, rather than just the point-of-sale journey. The theme of education campaigns was again highlighted in feedback as a mechanism for supporting innovation, as was the use of research groups to allow open discussion and challenge of new innovations.

## Best Interest Guidance

A welcomed aspect of the Discussion Paper was the CBI's intention to develop guidance on what it means for a firm to act in the best interests of its customers. Members were in favour of both the guidance and the proposed key components of the guidance, provided that the guidance is subject to a Public Consultation process. Members also recommended that separate guidance be issued from the CBI in areas such as Conflicts of Interest, Fairness and Honesty, and a consolidated view of Information requirements of Financial Service Providers.

## Digitalisation

Another key theme of the Discussion Paper was Digitalisation, with member feedback focusing on the aspects of the paper relating to targeted

advertisements and how these can be made compatible with the need for firms to act in the best interests of Customers. In this regard members recommended a number of measures, including:

Consent for targeted advertisements being a requirement of the new CPC;

Further policing of opt-outs to ensure they are processed correctly;

Requiring the inclusion of social media marketing strategies in product governance processes;

Prescribed rules for the identification of advertisements being a requirement of the new CPC;

A requirement for clear and transparent language when describing the use of Cookies to Customers; and

Engagement between the CBI and the DPC on matters that are concerned with both data protection and consumer protection.

## Informing effectively

The topic of informing consumers effectively was another key theme of the paper, and area which members showed great interest. Members provided useful suggestions on how regulation can improve the effectiveness of information disclosures to consumers, as follows:

Prior to the publication of new regulations, consumer surveys or focus groups should be used to understand consumer views on the effectiveness of disclosure statements;

The introduction of industry or product standard Key Information Documents across all products which should be concise, phone-friendly and customer-outcome focused;

A review of the volumes of information to be provided to consumer should be considered to avoid information overload; and

A review of the extent of warning messages required under the CPC should be considered, particularly where warnings are required under other regulations such as the CCA for mortgages to avoid duplication.

## REFERENCE

- 1 [https://d15k2d11r6t6rl.cloudfront.net/public/users/Integrators/BeeProAgency/652846\\_635112/Consumer%20Protection%20Code%20CPC%20Review%20Discussion%20Paper%20Response.pdf](https://d15k2d11r6t6rl.cloudfront.net/public/users/Integrators/BeeProAgency/652846_635112/Consumer%20Protection%20Code%20CPC%20Review%20Discussion%20Paper%20Response.pdf)