

Dear Sir/Madam,

Re: Investment Consultants Market Investigation, working paper: information on fees and quality

Our view is that the proposed information remedies are feasible and proportionate.

The principal comment we would like to make is that this does not deal with the conflicts of interest in fiduciary management. We also note that in many small schemes that in practice it will be the supplier of such information who will, on behalf of the trustees, assess the information.

In this context, information remedies may be helpful but they are unlikely to resolve poor market outcomes for employers and employees.

We would underline that in our view, as in our original submission, structural remedies will be far more effective than information remedies in this case. We note that there is now a long established competition lawyers' critique of behavioural remedies as being less effective than structural ones¹.

In our view, the key remedies would be:

- Rule 1: A prohibition on the same company being both adviser and supplier of fiduciary management/funds/master trust to a scheme. Companies could potentially operate in all market segments but would have to choose between them if they sought to offer a service to a pension scheme; and
- Rule 2: A duty on trustees of pension schemes to consider value for money at a minimum for (i) employees, and (ii) employers. We would suggest that amongst the smallest schemes that where there are excessive rents being taken by consultants that they are often being met by employers and not through the trust itself. This can mean costs being passed on to employers without employers realising that these costs might be unnecessary if a bundled solution was used. We would also suggest in the members' and employers' interest that the value for money test includes, as it does in Australia, a duty on trustees to consider whether they have the scale to deliver as good a degree of value for money compared to the best schemes on the market and where this is not the case to consolidate. Reporting on the fulfilment of these duties ought to be required in the Chair's statement.
- Rule 3: a requirement for mandatory tendering where vertically integrated providers have supplied investment consulting and fiduciary management/master trusts.

Kind regards

Yours sincerely,

Dr Andy Tarrant

¹ As the OECD put it "...behavioural policies, unlike structural policies, do not eliminate the incentive of the regulated firm to restrict competition ... despite the best efforts of regulators, regulatory controls of a behavioural nature, which are intended to control the ability of an integrated regulated firm to restrict competition, may result in less competition than would be the case if the regulated firm did not have the incentive to restrict competition." OECD (2001) Recommendation of the OECD Council concerning Structural Separation in Regulated Industries, p.2. For an academic discussion see <http://www.nera.com/publications/archive/2016/behavioural-versus-structural-remedies-in-eu-competition-law.html>

Andy Tarrant

Head of Policy and Government Relations

W www.bandce.co.uk

W www.thepeoplespension.co.uk