Response ID ANON-N31T-5NCN-T

Submitted to Reforming Competition and Consumer Policy
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About you

What is your name?

Name:
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What is your organisation?

Organisation:
Just

Are you happy for your response to be published?

Yes, but without identifying information

Would you like to be contacted when the consultation response is published?

Yes

Consumer Law Enforcement

55 Do you agree with government's proposal to empower the CMA to enforce consumer protection law directly rather than through the civil courts?

Not Answered

Please expand on your answer here.:

56 What would be the benefits and drawbacks of the CMA retaining the same or similar enforcement scope under an administrative model as it has under the court-based, civil enforcement process under Part 8 of the EA 02?

Please respond here.:

57 What processes and procedures should the CMA follow in its administrative decision-making to ensure fair and proportionate administrative decisions?

Please respond here.:

58 What scope and powers of judicial scrutiny should apply in relation to decisions by the CMA in consumer enforcement investigations under an administrative model?

Please respond here.:

59 Should appeals of administrative CMA decisions be heard by a generalist court or a specialised tribunal? What would be the main benefits of your preferred option?

Not Answered

Please expand on your answer here.:

60 Should sector regulators' civil consumer enforcement powers under Part 8 of the EA 02 be reformed to allow for enforcement through an administrative model? What specific deficiencies do you expect this to address?

Not Answered

Please expand on your answer here.:

61 Would the proposed fines for non-compliance with information gathering powers incentivise compliance? What would be the main benefits, costs, and drawbacks from having an option to impose monetary penalties for non-compliance with information gathering powers?

Not Answered

Please expand on your answer here.:

62 What enforcement powers (or combination of powers) should be available where there is a breach of a consumer protection undertaking to best incentivise compliance?

Please respond here.:

63 Should there be a formal process for agreeing undertakings that include an admission of liability by the trader for consumer protection enforcement?

Not Answered

Please expand on your answer here.:

64 What enforcement powers should be available if there is a breach of consumer protection undertakings that contain an admission of liability by the trader, to best incentivise compliance?

Please respond here.:

65 What more can be done to help vulnerable consumers access and benefit from Alternative Dispute Resolution?

Please respond here.:

66 How can regulators and government balance the need to ensure timely redress for the consumer whilst allowing businesses the time to investigate complex complaints?

Please respond here.:

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COMMENTS IN RELATION TO QUESTION 66
We support the government's intention to ensure that resolution of consumer complaints are not unnecessarily protracted. We aim to resolve complaints as quickly as possible. However there are occasions where complaints cannot be resolved promptly and require detailed investigation to ensure the most appropriate outcome. We are therefore concerned that the current proposals may drive firms to resolve complaints too quickly without full and proper investigation and analysis in order to meet regulatory requirements which may not serve to be in the best interests of consumers. This will also put further strain on the Financial Ombudsman Service where complaints could be referred to them too early and as such the FOS will refer back to the firm to complete its investigation will ultimately not reduce the length of time.

In our experience, complaints relating to financial advice typically take greater time to conclude due to the following reasons::

• There are high volumes of complex literature and salient documents to review.
• Reviewing multiple and sometimes very lengthy telephone calls adds considerable time to complaint investigations.
• Many advice mis-sale complaints are raised years after the sale itself. This means that from an IT perspective many companies will have archiving processes in place for security purposes, which could result in delays in accessing recorded calls or document. This adds time to the investigation timescales.
• Often complex or advice complaints are raised by parties who were not present at the meetings (often beneficiaries) and therefore they can be very

broad in their nature resulting in multiple complaint points needing to be addressed.
• For mis-sale complaints often there are times where wider historical market research is required, which adds additional complexity and time to the investigation.
• Sometimes firms would be required to write out to companies or individuals in respect of the complaint to get their accounts (e.g. ex-advisers and solicitors). This adds additional time to investigations while allowing these parties adequate time for them to investigate the case and provide their response.

We therefore suggest that the current timeframe of 8 weeks remains. An alternative option could be to allow a longer period for “complex” cases. This would require the government to define what constitutes a “complex” complaint. This in turn might allow the consideration of a 2-tier system i.e. 4 weeks for “minor” complaints (as defined) and retain 8 weeks for “complex” cases (again by definition). We would suggest that the definition of a "complex" complaint should include those cases which involve vulnerable customers, those under duress and potential victims of fraud or coercion. However there is concern that this approach may cause further confusion for firms and consumers.

67 What changes could be made to the role of the ‘Competent Authority’ to improve overall ADR standards and provide sufficient oversight of ADR bodies?

Please respond here.:

68 What further changes could government make to the ADR Regulations to raise consumer and business confidence in ADR providers?

Please respond here.:

69 Do you agree that government should make business participation in ADR mandatory in the motor vehicles and home improvements sectors? If so, is the default position of requiring businesses to use ADR on a ‘per case’ basis rather than pay an ADR provider on a subscription basis the best way to manage the cost on business?

Not Answered

Please expand on your answer here.:

70 How would a ‘nominal fee’ to access ADR and a lower limit on the value of claims in these sectors affect consumer take-up of ADR and trader attitudes to the mandatory requirement?

Please respond here.:

71 How can government best encourage businesses to comply with these changes?

Please respond here.:

72 To what extent do you consider it necessary to open up further routes to collective consumer redress in the UK to help consumers resolve disputes?

Please respond here.:

73 What impact would allowing private organisations and consumer organisations to bring collective redress cases in addition to public enforcers have on (a) consumers, and (b) businesses?

Please respond here.:

74 How can national enforcement agencies NTS and TSS best work alongside local enforcement to tackle the largest national cases of criminal breaches of consumer law?

Please respond here.:

75 Does the business guidance currently provided by advisory bodies and public enforcers meet the needs of businesses? What improvements could be made to increase awareness of consumer protection law and facilitate business compliance?

Not Answered

Please expand on your answer here.: