

Brokers Ireland

Members Membership Meeting
CP116 – Outcome Discussion
24th October 2019



BROKERS

I R E L A N D

Agenda:

- Outline of the main report changes and implications for Brokers
- Update on interactions with Central Bank on areas which require clarification
- Update on interactions with Product Providers
- Implementation date and preparation
- Next Steps
- Q&A Session



Main report changes and implications for Brokers

- The Central Bank published their response to CP 116 on the 25th of September – Addendum to the CPC 2012 (September 2019) & Feedback statement.
- The Addendum outlines changes stemming from :
 - the CB consultation on Intermediary Inducements CP116 and
 - changes arising from the transposition of the Insurance Distribution Regulation 2018.

Main report changes and implications for Brokers

- Clear from the feedback statement, that the CB took on board Brokers Ireland's submission and acknowledge the many benefits to consumers from the operation of Intermediaries in the Irish market, including access to advice, better competition in the market and a wider choice of products.
- They also took on board Brokers Ireland's opposition to the application of MIFID standards wholesale across the industry and proposals which would significantly increase the regulatory burden on consumers with questionable benefit to them.

Main report changes and implications for Brokers

- **Proposals not now going ahead include:**
 - CB didn't proceed with proposals to change to the term inducement.
 - Didn't introduce the concept of enhanced quality of service for all commission payments.
 - Didn't introduce the requirement to document conflicts of interest at each transaction.

Addendum to the CPC 2012 (September 2019)

- **On the issues of :**
 - Abolition of mortgage commission linked to the loan amount
 - Restriction on advising on products from a range where there is a difference in commission rates for the range of products involved

The Central Bank has indicated that they will carry out further research on these proposals as part of their upcoming review of the Consumer Protection Code in 2019/20.

Addendum to the CPC 2012 (September 2019)

What is proceeding:

- The ban on using the term independent or a similar term in your name / description of service where you take commission.
- A list of all your commissions across all providers you deal with is to be made available to your consumers in your office /on your website and bring it to the attention of your consumer. Originally CP116 proposed that this “commission summary document” be given to all your consumers.
- Hospitality benefits from providers such as golf trips and sporting event tickets will be banned.

Addendum to the CPC 2012 (September 2019)

What is proceeding:

- The ban on overrides linked to volume and retention.

In relation to profit-based overrides/profit share, the Central Bank have advised they are permissible once:

- The Broker is able to demonstrate that the arrangement is in the best interest of the consumer and
- Brokers/MGAs must avoid conflicts of interest relating to targets that do not consider a consumer's best interests.

Addendum to the CPC 2012 (September 2019)

Changes : Remuneration

In order for commission to be acceptable, it must :

- a) not impair compliance with the regulated entity's duty to act honestly, fairly and professionally in the best interests of the consumer;
- b) not impair compliance with the regulated entity's obligation to satisfy the conflicts of interest requirements set out in Chapter 3 of this CPC;
- c) not impair compliance with the regulated entity's obligation to satisfy the suitability requirements set out in Chapter 5 of this CPC, and
- d) in the case of a non-monetary benefit, be designed to enhance the quality of the service to the consumer."

Addendum to the CPC 2012 (September 2019)

Changes : Conflicts of Interest

A regulated entity must avoid conflicts of interest relating to the following:

- a) fees, commission, other rewards or remuneration linked to the achievement of targets that do not consider the consumer's best interests e.g. targets relating to volume (including override commission) and bonus payments linked to business retention; and
- a) agreements under which the regulated entity receives a fee, commission, other reward or remuneration in the form of goods or services, in return for which it agrees to direct business through or in the way of another person.

Addendum to the CPC 2012 (September 2019)

Changes : Use of the term Independent

An intermediary may use the description “independent” or use any other word or expression that is a derivative of, or similar to this term –

- a) in its legal name, trading name or any other description of the intermediary, only where regulated activities provided by the intermediary are **all** provided on the basis of a fair analysis of the market; or
- a) in any description of a regulated activity provided by the intermediary, only where that regulated activity is provided on the basis of a fair analysis of the market,

and, only where the intermediary does not accept and retain any fee, commission, other reward or remuneration where advice is provided in respect of regulated activities provided by the intermediary, other than -

Addendum to the CPC 2012 (September 2019)

Changes : Use of the term Independent

- i) a minor non-monetary benefit* that includes, for example, attendance at a conference within the State, IT software or platforms, or hospitality of a reasonable de minimis value such as food and drink during a business meeting or conference; and
- ii) a fee paid by a consumer, or a person acting on behalf of a consumer to whom the advice is provided.

***Minor non-monetary Benefit** - means such minor non-monetary benefit that is capable of enhancing the quality of the service provided to a consumer and is of a scale and nature such that it could not be judged to impair compliance with a regulated entity's duty to act in the best interest of the consumer.

Addendum to the CPC 2012 (September 2019)

Changes : Information about Remuneration

An intermediary must make available in its public offices/ website, a summary of the details of all arrangements for any fee, commission, other reward or remuneration paid or provided to the intermediary which it has agreed with product producers.

Where an intermediary operates a website, it must publish the summary on its website. The summary must include a minimum of the following:

- a) an indication of the agreed amount or percentage of any fee, commission, other reward or remuneration where the payment is made to the intermediary on this basis;
- b) an explanation of the arrangement including details on the type of fee, commission, other reward or remuneration paid or provided to the intermediary, for example, sales commission or trail commission, and details affecting the fee, commission, other reward or remuneration paid or provided to the intermediary, for example, clawback provisions;

Addendum to the CPC 2012 (September 2019)

Changes : Information about Remuneration

c) details of any other agreed fees, administrative costs, or non-monetary benefits under such arrangements, including any benefits, which are not related to the intermediary's individual sales.

An intermediary must bring this information to the attention of the consumer, and provide any clarification of the information if requested by the consumer, before concluding a contract for a financial product or service.

An intermediary must retain records demonstrating that it has complied with this requirement.

Addendum to the CPC 2012 (September 2019)

Part II

- A number of provisions, with immediate effect, within the Consumer Protection Code (CPC) do not apply to the distribution of insurance-based investment products, while others in general do not apply to the distribution of all insurance products.
- While these CPC provisions (conflicts of interest/contingent sales/knowing the consumer) no longer apply, provisions of the IDR apply in their place.
- Brokers Ireland currently working on guidance (awaiting CB clarification on some) and will issue to the membership as soon as possible.

Interactions with CB on areas which required clarification

- Brokers Ireland met with the Central Bank on the 14th Oct

Abolition of Mortgage commission linked to loan amount

- CB indicated that they had anecdotal evidence that consumers were being pushed/encouraged to take out a higher loan amount than they had sought by Brokers
- Information was not coming from complaints and that the research unit in the Central Bank will be investigating the matter.
- BI requested that they be kept involved in the research piece in order to assist them in their work.

Interactions with CB on areas which required clarification

Concerns over the Commission Summary Document

- Brokers Ireland outlined the practical problems with formatting document in respect of the volume of information that would need to be included to meet the requirements of the provision.
- The CB advised that the provision is in place and it is up to the industry/brokers to devise the format and content in order to meet the requirements.
- Needs to cover all your providers and possible commission agreements.
- Needs to be displayed on your website if you have one, otherwise made available in your office.
- BI recommend you include reference to the availability in your TOB and also in SOS/Cover Letter. (Updated TOB to be circulated by BI in due course)

Interactions with CB on areas which required clarification

Restrictions on advising where there is a difference in commission rates for products across different providers.

- The Central Bank advised that many respondents to CP116 have misinterpreted the proposal and that their proposal was in respect of impartial pricing.
- They advised that this will be reviewed as part of the CPC consultation.
- BI offered to assist in any research in this area.

Interactions with CB on areas which required clarification

Highlighted that the current format of the Consumer Protection Code is unwieldy, and a review needs to take place.

- Central Bank acknowledged that the current format is unwieldy.
- It advised a review is in the very early stages of planning (will be at least 2020 before it commences) and that it is the intention to change the code to a set of regulations.
- BI also highlighted its concerns about Part II of the addendum.

Update on interactions with Product Providers

- The Life Company Compliance Life forum met on the 1st of Oct.
- In respect of the Commission Summary Document, Brokers Ireland outlined that it would be beneficial if the industry could come to an agreement on the format and the manner in how the information would be communicated to brokers.
- Agreed that each company will look into the matter and revert back at the next meeting which will take place in November.
- BI also will liaise with General Insurance providers.
- Also currently making contact with CRM provider to see how they can assist Brokers met the requirements.

Implementation date and preparation

- 6 month lead in period for implementation – 31st March 2020

Next Steps

- BI will issue guidance in due course in relation to updating TOB/Conflicts of interest policy
- Key area for focus is the format/extent of the Commissions Summary document
- Continue to liaise with CB in respect of their research into concerns about mortgage sales.
- Update the members regularly.

Questions & Answers

