An Roinn Airgeadais
Department of Finance

Central Bank of Ireland

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Governor's Office

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Gabriel Mahklouf,
Governor
Central Bank of Ireland
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Dear Governor,

I welcome your review of the Consumer Protection Code (CPC). I believe it is timely to carry out an in-depth review, and I welcome the opportunity for my Department to provide assistance and consultation as the review project progresses.

The financial system is changing, and the pace of this change keeps increasing. Established players are leaving markets, new players are joining, new financial products are being developed, and the very way we access financial products and services is changing, with the advancement of digitisation. In order to deal with the rapid and continuous change in the financial system, it is of key importance that all stakeholders involved work together and address these changes in a coordinated way.

I welcome the approach being taken by the Central Bank to conduct wide ranging consultation with a variety of stakeholders. This open engagement should reap benefits by ensuring issues are assessed from a number of different standpoints.

The Consumer Protection Code (CPC) is the cornerstone of the consumer protection framework in financial services in Ireland. It brings together many other European and national laws. I appreciate the framing of the discussion in how it aligns with the revised OECD High Level Principles on Financial Consumer Protection and their cross-cutting themes of: financial well-being; digitalisation and technological advancements; and sustainable finance.

It is key to strike the right balance between regulation and consumer protection. Ireland needs a vibrant financial services industry which attracts new providers and supports the development of new products and technological advancement. At the same time, it needs one which strongly protects consumers, especially from the new risks these changes could bring.

At this point, in reaction to your published Discussion Paper, I wish to highlight a limited number of areas of particular interest from my perspective as Minister for Finance.

Vulnerability

It is very important that special attention should be paid to the treatment of consumers who may be experiencing vulnerability. Vulnerability indicators are wide ranging and may involve illness, age, personal family circumstances, relationship issues, employment, education or economic issues, and it may be a permanent or temporary issue. The way we think about, and deal with, vulnerability needs to move away from grouping of those with similar traits towards dealing with consumers on an individual basis.

The CPC Review also offers an opportunity to consider possible ways to reduce barriers to access for customers recovering from serious illness, including by embracing the principles underpinning the 'Right To Be Forgotten'.

The recent mass migration of current accounts due to the withdrawal of Ulster Bank and KBC from the Irish market brought up a number of issues in relation to customers in vulnerable situations.

Lessons are being learned from this and the industry must continue to adapt their practices to address them. We will see how well they deal with these more complex individual cases as the withdrawal process progresses and comes to conclusion. The Assisted Decision Making Act 2022 will help to address some of these issues going forward, and the CPC Review also offers an opportunity to promote an enhanced focus on and understanding of vulnerability.

Incidents of consumers falling victim to financial scams have increased immensely in recent years, largely with the advancement of technology, and more consumers in vulnerable situations are more susceptible to these types of scams. Any opportunity in the CPC Review to strengthen how consumers are protected from such scams (both general consumers but especially the more vulnerable) would be welcome. There is also a need to review the appropriateness of the current level of protections afforded to consumers who receive advice on and/or are sold unregulated products by regulated entities.

Affordability

For a long time the "Low Interest Rate Environment" dominated the world of financial services. However, in the last year we have gone from a low-inflation, low-interest rate world to one which is vastly different. Inflation rates have climbed to currently stand at seven per cent having peaked at nearly ten per cent, and interest rates are also rising, in

terms of the ECB rate and the rates customers are being charged on their borrowings, especially on their mortgages.
It will, therefore, be important to support borrowers as they seek to minimise their mortgage costs. Central Bank research has indicated that there is potential for existing mortgage holders to make mortgage savings by switching their mortgage. The Economic and Social Research Institute (ESRI) is carrying out work which will inform the development of tools to promote switching. However the ESRI's work also serves to highlight consumer inertia as a critical issue which deserves further attention. The Competition and Consumer Protection Commission and Money Advice and Budgeting Service also play an important role in informing consumers about the options available to them.

It is a priority for me to ensure that the regulatory framework supports borrowers in the mortgage switching process, particularly at this challenging time. There are also unique aspects to mortgages as a form of credit, such as cashbacks and competition in the mortgage market should also be explored. The Central Bank should further review the existing regulatory provisions and consider whether more dedicated mortgage switching resources, such as a standalone mortgage switching code, could better encourage and facilitate switching in the mortgage market. It seems logical to me that there should be a dedicated mortgage switching code, and I look forward to the outcome of your work on this issue.

In relation to the use of cashbacks in the mortgage market, I am concerned that customers availing of these cashbacks are paying a higher interest rate for the duration of the mortgage. Cashbacks work well for customers who switch their mortgage after the minimum period and, in doing so, may well benefit from another cashback with a new lender. However, the data tells us that the vast majority of mortgage holders do not switch and therefore may well be paying a price for the cashback over time. A question for the Central Bank to consider is whether, taking into account the inertia we know to be there, the general body of customers are well served in the round by cashback offers and whether they would fare better overall if banks competed on mortgage rates.

The ECB has said it will continue to increase interest rates until the point it gets inflation back under control towards its target of two per cent. As yet, we don't know how long this will take or the depth of its impact on the affordability of consumers to borrow and repay loans.

In a recent letter from the Department of Finance to the Central Bank we highlighted steps which are being taken by the Department to address a recommendation in the recent International Monetary Fund (IMF) Financial System Stability Assessment to tackle long term mortgage arrears by coordinating with various government departments and agencies. It is important, given the change in the interest rate cycle, that the CPC Review

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takes into account the risk of new mortgage arrears cases materialising and the steps which can be taken to minimise this risk.

Among the mortgage customers most affected by the change in monetary policy are those whose mortgage is now with the non-bank lending sector. I am very concerned at the impact on customers of some of the rates being charged by the non-bank sector. Many of these customers have corresponded with me directly and have explained in stark terms the impact of the rate increases on them. Some of these customers are now being charged rates that are substantially higher than the rates being charged by the retail banks. I know the Central Bank is engaging with the non-bank sector and will want to satisfy itself as to whether the rates being charged are justified by actual changes to the funding costs being experienced by individual non-bank lenders. I look forward to the outcome of this assessment. Some of the mortgage holders now the subject of the highest rates in the market are the least able to carry the burden. Some are non-performing, others were non-performing in the past but are now performing, and some have always been repaid in accordance with the terms of the mortgage. There is no reason why many of the non-bank mortgage customers (certainly the performing ones) should not be allowed to switch their mortgage back to a retail bank and avail of a better rate, but there is no evidence this is happening. It is vital that switching from the non-bank sector to the banking sector is fully and actively supported and facilitated by all parties where it is in the customer's interests.

Other Issues

As you are aware, my Department carried out a review of the retail banking system last year. There are a number of recommendations made by the review which relate to the CPC, in areas such as competition, access to branches, mortgage switching, and SME Credit, which have direct implications for the CPC review.

I trust the Central Bank will take have regard to these recommendations to the best extent possible during the CPC review process where they have an impact on consumer protection.

Building on the lessons learnt from the insurance sector during COVID, the CPC should mainstream the Central Bank's expectations of how customers are treated, including in terms of claims interpretation and handling. This Review process should also reflect recent legislative developments, including *inter alia* the 2019 Consumer Insurance Contracts Act.

With climate-related issues becoming more prominent and coverage gaps potentially emerging, financial service firms including insurers should meet their responsibilities including in terms of transparency both to customers, and also the wider community through the availability of cover in flood-defended areas.

Following the CPC review process, access to the resulting rules or regulations stemming from the CPC Review should be made easy for consumers. Similar to the expectations

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placed on regulated firms to act in the best interest of customers, so should the provision of this information also be consumer-centric.

Consumers should be able to determine how the Code protects them in a straight forward way, in an easy to understand format, and according to the product or service they have concern with. While industry may understand well how to interpret rules and regulations, this can be more difficult for the ordinary consumer. An accompanying consumer user-guide of some description would be welcome.

I look forward to engaging with you further as the Bank progresses its review of the CPC in the coming months. In the meantime, my officials will continue to engage with yours, on this important review and other issues.

Yours sincerely,

Michael McGrath

Michael McGrath TD
Minister for Finance