



**Association of Finance Brokers response to the
Competition Commission's Notice of Possible Remedies in its
Market Investigation into Payment Protection Insurance**

The Association of Finance Brokers (AFB) is the trade association representing intermediaries operating in the secured loan (second charge mortgages over residential properties) industry. The large majority of our members also hold insurance permissions with FSA and arrange PPI alongside the second charge loan (referred to as SLPPI in Competition Commission documents). Our members also increasingly advise on other protection products in a holistic manner. AFB represents brokers who are responsible for approximately 75% by volume and value of secured loans in the intermediary channel.

AFB responded to the Competition Commission Emerging Thinking in November 2007, and to relevant working papers in early 2008. AFB called for remedies, and conclusions, to align SLPPI with MPPI, due to the involvement of independent intermediaries within the purchase process, with significant portions offering advice to consumers, forming a robust sales process.

We are responding to the Possible Remedies document from the perspective of the consumer, and our members as intermediaries. We have not offered comment on the remedies and their appropriateness for other parties, such as underwriters or distributors. For this reason we have not commented on all eleven potential remedies.

AFB strongly believes that remedies need to consider consumer outcomes, and must be careful not to elicit unintended consequences. The compound effect of the Competition Commission enquiry, three rounds of FSA thematic work and negative consumerist attention has left those that advise on PPI in a difficult position. We would not welcome reducing consumer access to protection products.

AFB is also acutely aware of the vulnerability of a number as a result of the wider economic uncertainty. With property prices falling, inflation and interest rates increasing and the catastrophic effect of the 'credit crunch' slowly being felt by borrowers – in particular those within the sub-prime and non-conforming sectors – we would not wish to see significant additional barriers to those that wish to seek protection arrangements.

We caution the Competition Commission further regarding the advances already made by the market. During the first six months of 2008 the market has adopted significantly revised Insurance Conduct of Business rules (ICOBS) from FSA. This has led to changes within the sales processes of our member firms, and will continue to improve such processes for the benefits of the consumer. It should be noted that PPI already has increased regulation within the revised rules. Indeed, we feel that some aspects of the remedies could represent duplication of rules already in place as a result of the ICOBS rule changes. We also hold concerns that remedies considered and adopted without knowledge of the existing implications of rule changes could either duplicate or unintentionally surpass rules which cannot be judged due to their relative youth.

The Financial Ombudsman Service has also substantially altered their stance over the previous year. FOS has indicated to AFB that many PPI complaints are found in favour of the consumer. This is effectively a serious existing 'remedy' to which the industry is already reacting. FOS also changed their jurisdiction in April 2007 to include the Consumer Credit Jurisdiction. This further aligns MPPI and SLPPI as both associated credit products now both benefit from FOS coverage.

The combination of revised ICOBS regulations, and the emerging rulings from FOS in recent months, is already encouraging the industry to better address some of the more structural product issues. Further remedies could over-compensate for issues already being addressed.

AFB acknowledges that some findings of the Competition Commission do not demonstrate a market working in perfect competition. We consider that empowered consumers able to shop around with transparent access to information and a level-playing field are crucial to achieving that outcome. Per se, we do not believe that remedies based on provider (in its widest possible definition) limitations will produce good consumer outcomes.

The remedies do not appear to acknowledge the cross-subsidisation matter which the Competition Commission has commented upon in earlier work. The likely consequence of the remedies is that for some the cost of credit for will increase. We believe this should be carefully considered, particularly in light of the current economic conditions.

With regard to the specific remedies, AFB has limited its response to those which we feel could impact on intermediaries. We do not feel it is appropriate for us to make judgements on other parties, such as distributors or underwriters.

We reiterate that secured loans and SLPPI are very different to other forms of PPI under investigation, such as credit cards or unsecured personal loans. We are acutely aware that one size does not fit all, and believe that to avoid

unintended consequences which are counter-productive and produce worse consumer outcomes, the Competition Commission must carefully select appropriate remedies for each market, rather than adopting any 'one size fits all approach'.

Option 1

AFB believes that disclosure is a key aspect of any open and transparent market, and that well informed consumers are more likely to engage with shopping around.

That said, we believe that the recently revised ICOBS rules, which are still only in their transitional phase, will at least partly address this. Indeed we believe the revised rules could enhance the number of consumers receiving advice on PPI. Any additional requirements beyond this, whilst the implications of the revised ICOBS rules are still unclear, could have a significant detriment to the market and consumers, with some intermediaries withdrawing from the sector altogether.

Specifically considering the remedies, AFB is uncomfortable with the PPI comparison tables on the FSA website. Whilst in concept this may be sound, the reality is that PPI is extremely complex. AFB also strongly believes that shopping around does not equate to advice; the value of an intermediary who acts as agent of the client should not be underestimated.

Requirements relating to the annual cost within marketing material also pose concerns. Whilst details of such costs are covered in Key Facts Illustrations at point of personal recommendation, inclusion in marketing and advertising material could be prohibitively complex. We would, however, think that highlighting the non-compulsory nature of PPI when purchasing credit to be a fair requirement.

AFB also worries about 'information overload' for consumers if whole-life cost or annual cost of credit should be included. ICOBS provides for total cost and 'cost in relations to a regular budget'. To include further requirements could result in consumers simply ending up confused.

If seeking to compare costs, we believe the monthly cost of a regular premium PPI product, and the monthly equivalent cost of a single premium PPI product will in most circumstances provide sufficient information for a consumer to make an informed decision. This prescription is already included in the recently revised ICOBS rules.

The complexity of advertising/financial promotions rules for AFB members (both OFT and FSA regulated) is already significant, with joint working parties already addressing our concerns. Further complexity by including credit intermediaries

within the remedies is likely to encourage a number of firms to withdraw from the market, reducing consumer access to advice.

Option 2

PPI disclosure is heavily prescribed in ICOBS and IMD. Further standardisation will only take effect if individuals are suitably empowered to actually shop around and make comparisons.

The fixed quote model could add an additional layer of cost to the product. We would not wish to see costs passed to consumers, but invariably they could be. Conceptually, we have difficulty in understanding how offering a firm quote for a single premium PPI can be facilitated, in cases where it is funded by and reliant on debt.

The idea of extending 'firm quotes' to credit in the current market is also impractical. As the Competition Commission will be aware credit markets are incredibly vulnerable at present. Prices – and products – can be changed with little or no notice, and on a very frequent basis. Compulsion to offer firm quotes for credit would result in firms simply withdrawing from either the credit or PPI markets, due to their simple inability to comply. AFB, and we would expect consumer groups, would have serious reservations relating to the increased number of 'footprints' on a credit file that firm quotes for credit would achieve. In extremes, individuals could actually damage their credit rating by 'shopping around' and incurring multiple footprints, which is clearly undesirable.

It would also seem disproportionate to insist that credit intermediaries offer firm quotes. FSA's Responsibilities of Providers and Distributors clearly articulates roles of parties. Whilst a credit intermediary would be able to provide information, binding firms with firm quotes would extend considerably beyond their current remit. Potentially, the changes required to contracts would also add a significant layer of additional cost.

Option 3

The provision of information by distributors to third parties is not an area that AFB feel would have a direct impact on intermediaries. We therefore have no comments on this remedy.

Option 4

AFB has reservations about prohibition of access at point of sale. Whilst we note – and welcome – the absence of intermediaries in the remedies as proposed, we hold significant concerns over consumer access more widely.

Insurance products often require degrees of advice, and persuasion. The imposition of a 90 day period could be devastating for the uptake of PPI. The subsequent uptake for individuals after 90 days would be low. We also believe that many individuals would not actively seek cover elsewhere in the meantime. The consequences of this action could also impact on other remedies, including the use of single premium policies. For example, if a firm released the cost of an SP-PPI policy to a client and then returned ninety days later to take payment for the SP, it could be that the funds were no longer available.

The industry – and thus cost of risk borne by the end consumer – could also increase as elements of these products (typically unemployment cover) suffer from adverse selection. This, over a 90 day period could cost genuine consumers more by cross subsidising those who purchase as adverse selection.

It would also leave consumers at their most vulnerable and potentially unprotected. At the start of the loan term the debt is greatest, and statistically we believe policies are most likely to be claimed against in the first year of a loan.

AFB are concerned that this move would be unprecedented in the financial services market; the consequences could be most alarming when protection levels are at their lowest and increasingly the economic outlook appears poor, in particular for the most vulnerable consumers.

Consumer already benefit from significant cooling-off periods – both for the underlying credit by way of the non-contact period, and within the revised ICOBS rules which stipulate a 30 day refund and consideration period. We believe this provides ample opportunity for consumers to shop around, if they were better educated and empowered now. Indeed, for all intents and purpose the industry does now have a thirty day period where a consumer can shop around and receive a full refund if they wish to purchase from elsewhere.

Option 5

AFB believes that an automatic annual opt-in would not work in the best interests of consumers. Our concerns relate to apathy – even car insurance paid for by credit card automatically renews to avoid this very situation.

For single premium policies, we also wonder if the apparent readily available ‘windfall’ of a cancellation at a time of financial distress when by definition they are most likely to claim on the policy is a sensible remedy. It could be a temptation too much for some consumers, and add further to their under-protection.

Option 6

AFB believes that an annual invitation to cancel will result in similar consumer detriment to Option 5. Consumers facing the most pressing situations are most likely to claim, yet those who find their situations most difficult will surely cancel? This could have the unintended consequence of actually reducing claims paid as those in greatest need cancel their policies as they approach point of claim.

Option 7

AFB does not believe in product regulation. We believe that commercial pressures should influence design.

We understand that the Unfair Contract Terms Directive is in place to allow firms to be challenged over the legitimacy of areas such as refund terms. If this is so, we encourage the Competition Commission to rely on such laws to facilitate the appropriate changes to product development. The sector also has three regulators – the OFT, FSA and FOS – to encourage improved consumer outcomes.

Option 8

AFB has no specific comments on the remedies outlined in Option 8. However, we do not believe that a legislative approach to contract terms will benefit consumers as we believe that firms may leave the market.

Historically, product regulation, including Stakeholder and CAT standard, has not appealed to the market. We feel that a similar situation could occur if Competition Commission attempt to legislate the terms and conditions of a specific product. The tighter any definition, the easier it is to find work-rounds. For instance we believe a major high-street bank has developed a short-term income protection product to circumvent the PPI definition as laid down in ICOBS. A similar consequence could unintentionally be achieved here.

Option 9

No comment

Option 10

No comment

Option 11

AFB believes that every market should be able to appropriately price for risk. With such a complex market of premium frequencies, benefits, terms, and the variety of associated credit, suggest that price caps could be prohibitively difficult to manage – the sheer number of permutations of contract would be immense.

However, if the Competition Commission believe this to be appropriate a short-term 'forcing mechanism' could provide incentive for some distributors. However, we believe the negative ramifications of this move to be such that damage to consumer perception could render PPI un-marketable, even post expiry of the price caps.

AFB
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