

Written evidence submitted by The Claims Guys (FGCB01)

Financial Guidance and Claims Bill (HL) Part 2 – Claims Management Services Public Bill Committee 25 January 2018

1. The fee cap proposal

1.1 The Lords have amended the Financial Guidance and Claims Bill to provide for an interim fee cap on the charges that CMCs can make for their services. The interim fee cap of 20% on PPI claims would come into force two months after the Bill receives Royal Assent.

1.2 The consultation and evidence-gathering process supporting the proposed cap level was undertaken by the Ministry of Justice in February 2016. The consultation was woefully inadequate and incomplete and now also two years out of date.

1.3 Imposing a cap at the levels proposed will destroy the CMC market, with dire and far-reaching consequences for consumers across the UK. Without these CMCs many people will have no idea they have a claim and will never get back what it rightfully theirs.

2. The reality of the claims management market

2.1 70% of successful claims are being made through a CMC and there are an estimated 6 million consumers who are still eligible to recover in respect of mis-sold PPI. Many of these are hard-to-reach consumers, and many will have more complicate claims. Without the efforts of ethical CMCs those individuals are most unlikely to come forward to receive their rightful compensation.

2.2 The FCA's £42m PPI advertising campaign is a drop in the ocean compared to the many hundreds of millions already spent by CMCs helping to publicise the PPI mis-selling scandal through online advertising, radio and social media.

2.3 In contrast to a prevailing view that consumers can be subject to charges that are disproportionate, the service provided by CMCs is fair, reasonable and adds value to consumers. The vast majority of the fees charged by CMCs go towards making consumers aware of the compensation they might be owed, guiding them through the process, and carrying out time-saving tasks.

2.4 Consumers already know or could readily find out that they do not need to use a CMC, yet they choose to use one to avoid the time-consuming and often daunting task of claiming themselves.

2.5 The large reputable firms operate at the higher end of the market and do not market via telephone or text but instead identify consumers via radio, conventional media and advertising on social media. These methods do not create social nuisance. However, this kind of compliant marketing is expensive and CMCs undeterred by existing regulations, or uninterested in ethical standards, are happy to market in the cheapest and most socially irresponsible way.

2.6 A cap at the levels proposed in no way reflects the actual costs of processing many claims, not least because it does not allow for these marketing costs, which are a necessary and legitimate aspect of any business, and which play a vital role in finding 'hard to reach' consumers who are still owed redress.

3. The real motivation for the proposed fee cap

3.1 The major banks have set aside tens of billions to date to compensate for PPI mis-selling. But without CMCs the volume of claims made would have been a great deal lower and financial institutions would simply have kept money which they should never have taken in the first place.

3.2 It is no surprise that the banking industry wishes to draw a line under compensation payments as soon as possible. They know that without CMCs identifying and assisting victims, their liabilities for compensation will fall dramatically.

3.3 In their attempt to destroy the claims industry, the banks have lobbied the government to review the PPI claims management industry in the hope that the recommended actions would lead to a fall in valid claims for compensation, as they are aware that the majority of PPI compensation claims are identified and assisted by claims management companies.

4. An inadequate evidence-gathering process

4.1 Oversight bodies such as the Regulatory Policy Committee noted at the time that there were serious deficiencies around the evidence and analysis supporting the proposals contained in the consultation and its original Impact Assessment.¹

4.2 The Consultation set out very limited information as to the impact of the proposed cap on the claims management market, CMCs and consumers. Following the consultation, the Ministry of Justice's Consultation Response document did not address these concerns.²

4.3 There is therefore a risk of flawed measures coming into force based on preconceived notions of the existing claims management market.

4.4 The consultation itself was launched in February 2016 and the response was published in November 2017. Cabinet Office guidance states that Government should publish responses within 12 weeks of the consultation or provide an explanation why this is not possible. This did not happen. Furthermore, the analysis is now significantly out of date. For example, the FCA is now advertising directly to consumers which is a material change in the market.

4.5 The proposals for the interim fee cap are therefore based upon data which is no longer current.

5. Leading to poor outcomes for consumers

5.1 The use of historical and incomplete data will inevitably lead to imperfect regulation as described, leading to compliant CMCs exiting the market.

5.2 The ultimate losers will be consumers:

- A market dominated by less reputable CMCs that are able to operate at lower margins due to unethical business practices
- Plagued by greater nuisance calls and texts
- Less aware of their rights due to a lack of CMC advertising – particularly those hard-to-reach groups
- Less likely to claim what is rightfully theirs without a CMC there to help them through the often laborious and difficult process

6. Recommendation for amendment

6.1 During the Bill's Committee Stage in the House of Lords, the Government itself noted the vital importance of robust, evidence-based policymaking when referring to the future transfer of claims management regulation to the FCA:

*"To ensure the cap is appropriate, the FCA will need to obtain evidence from across the sector, analyse that information to develop suitable proposals, prepare a cost-benefit analysis and consult on draft fee cap rules. This will, necessarily, take some time. I am sure noble Lords will agree that we need a robust cap, developed on the basis of sound evidence and consultation."*³

¹ CMR Impact Assessment

² Claims Management Regulation consultation

³ Financial Guidance and Claims Bill [HL] - Committee (4th Day) - 13 September 2017

6.2 We believe that the FCA, as a robust financial regulator, should undertake its own assessment of a potential cap which it could then recommend the incumbent Claims Management Regulator to implement.

7. Who we are

7.1 The Claims Guys is one of the country's largest claims management companies. We do not market for business via telephone or text message. Since we began trading in 2009 we have helped over 340,000 customers recover more than £500 million in compensation to which they were entitled as a result of wrongdoing on the part of the banks. We have engaged fully with the review of claims management to date, including:

- > Responded to the Brady Review and the MoJ's consultation
- > Engaged with the Regulatory Policy Committee
- > Met with MPs, Peers and civil servants

7.2 We take pride in our high standards of compliance and encourage regulation of the CMC market where appropriate and necessary to uphold those standards. We are members of the Executive Committee of the Alliance of Claims Companies (ACC), the independent, representative voice of financial CMCs in the UK.

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