

Competition and Consumer Protection Commission Strategy Statement **A Citizens Information Board Submission**

1. Introduction

The Citizens Information Board (CIB) welcomes the opportunity to comment on the *Competition and Consumer Protection Commission's Strategy Statement*. The Board welcomes the establishment of the Commission and its integrative role in addressing the broad area of consumer protection. The three interrelated roles of the Commission -- advising Government and its agencies on the whole area of regulation; working with businesses in relation to enforcement and compliance; and empowering consumers to make better choices for themselves -- provides an important and necessary context for developing a stronger citizen-centred response to consumer protection. The amalgamation of the competition and consumer agencies should, as anticipated, provide a more cohesive approach to consumer protection generally. The roles of the Commission which are of particular interest to the CIB are those of enforcement and compliance and the empowering of consumers.

The primary function of the CIB is the provision of information, advice and advocacy in the broad area of social services. The agency has a statutory role to assist and support people, particularly those with disabilities, in identifying and understanding their needs and options and in accessing their entitlements to public and social services. The CIB carries out its role by supporting the development of the (i) the nationwide network¹ of Citizens Information Services (CIS); (ii) the Citizens Information Phone Service (CIPS); (iii) the nationwide Money Advice and Budgeting Service (MABS)² and (iv) the National Advocacy Service for People with Disabilities (NAS). The Board provides services directly to the public in some instances but works mainly with the delivery partners above.

The CIB provides the website www.citizensinformation.ie (and related micro-sites³), which include consumer protection legislation and regulation, the complaints and redress mechanisms in place and guidance on how to make a complaint in specific instances. CIB has also published in the past *Where to Complain: A Guide to Enforcement and Redress Bodies*.⁴

¹ There are 42 CISs providing information, advice and advocacy through 268 locations nationwide

² MABS are involved in advising and helping people in debt and financial difficulties and making representations on behalf of individual clients with creditors and with statutory agencies. There are 53 MABS Services operating from 65 offices and outreach clinics nationwide.

³ <http://www.keepingyourhome.ie/>; <http://www.gettingbacktowork.ie/en/>

⁴ http://www.citizensinformationboard.ie/publications/providers/downloads/where_to_complain_2009.pdf

In 2014, there were over 700,000 callers to CISs and CIPS. Some 25,000 queries to CISs refer to consumer protection issues.

The CIB has specific responsibility for supporting the provision of advocacy services for people seeking social services and/or asserting their rights, including consumer rights. Advocacy services, in this context, can range from helping people to understand information to helping them to seek redress through formal appeals mechanisms.

In addition to the provision of information, advice and advocacy services, the CIB also has a role to provide information to Government on the effectiveness of current social policy and services and to highlight issues which are of concern to users of those services. CISs and CIPS report queries with a social policy dimension to the CIB i.e., queries which refer to a situation where a citizen was unable to get a service commensurate with need, including inadequate information from service providers (including financial institutions, utility and telecommunications companies) and difficulties in accessing redress mechanisms. Difficulties relating to consumer rights experienced by vulnerable groups (people experiencing indebtedness, older persons, people with mental health difficulties and migrants) are regularly reported.

This Submission focuses primarily on the compliance and enforcement role of the Commission. It makes some general points about the role of information in ensuring that people know their consumer rights. It also refers to the role that can be played by advice and advocacy support in assisting people to assert their rights as consumers and to seek redress where such rights have been infringed. The Submission also references some case examples provided by CIB delivery partners where people's rights as consumers appear to have been infringed. Finally, a number of points considered by the CIB to be relevant to the Commission's strategic development are noted.

Promoting and Enforcing Consumer Legislation

While the rights of consumers of goods and services are usually protected under the wide range of consumer protection legislation that exists, the enforcement of these laws can be difficult for individuals. A concern that arises regularly for users of information, advice and advocacy services supported by the CIB is the difficulty people have in negotiating a way through the plethora of redress agencies that exist and, in particular, which redress mechanism/s to use. It is almost certain that there is somewhat of a gap between legislative protection for consumers and the ability of individual citizens to enforce their consumer rights generally and in relation to specific products/services. The reasons for this gap are varied but include factors such as a lack of resources on the part of individuals, lack of adequate information about consumer rights and reluctance on the part of many individuals to engage in adversarial processes. The bridging of this gap is important if consumer protection legislation is to be meaningful for all citizens, in particular, those whose capacity to access and use information about their rights may be underdeveloped.

Based on the above considerations, the CIB suggests that the Commission should include the following in its strategic approach to enforcement:

- (i) A proactive approach to fostering an ethos of compliance with consumer legislation generally based on the premise that prevention of legislative breaches is likely to be much more effective than having recourse to complaints and redress mechanisms
- (ii) A strong and proactive educational and information dissemination role in collaboration with other relevant Government agencies
- (iii) Advocating with individual businesses in relation to compliance and in relation to ensuring that all product information is accurate and fully transparent
- (iv) Creating a context whereby people who believe their consumer rights have been infringed can experience a supportive redress infrastructure and feel that they are not on their own in dealing with what are sometimes big corporate entities with a resultant actual or perceived power imbalance
- (v) Providing a centralised repository for the large and very diverse range of agencies responsible for consumer protection in Ireland and under EU regulation.

The CIB believes that in the first instance strategic priority should be given to the educational and information dissemination role of the Commission in relation to consumer rights generally and the integrating role of the Commission.

While it is acknowledged that the Commission does not have a role in obtaining redress for individuals, there is an obvious need to for all citizens to have confidence that there is an overarching consumer watchdog in place whose role is to ensure the collective protection of all consumer rights.

Consumer information as a key to compliance

It is noted that the Commission has a specific obligation under its legislation in relation to personal finance information and education. This is a crucially important role given the complex sets of rules and procedures associated with many financial products. As is noted in the Commission's Consultation Document, gaps in understanding by consumers can be exploited by firms. Additionally, it is the case that people may have language, literacy, comprehension or cultural difficulties and/or mental health difficulties and that many people can become overwhelmed and deskilled by the vast amount of information associated with the terms and conditions frequently inherent in financial products and services. Ensuring that all providers of products and services make information available in a way that is clear, transparent and accessible⁵ should be at the core of Commission's Strategy.

⁵ Reference should be made in particular to the CIB Publication, *Access to Information for All* (www.citizensinformationboard.ie); the National Disability Authority, *Code of Practice on Accessibility of Public Services and Information provided by Public Bodies* www.nda.ie and to NALA publications (<http://www.nala.ie>)

Information and Communication Policies

Since the provision of accurate, comprehensive and transparent information is fundamental to enabling people to make informed choices about financial and credit services, telecommunications services and other utilities, all providers should be required to have in place an information and communications policy which would include Guidelines on the following:

- How to ensure that all information provided to consumers is fully transparent and to, as far as practicable, eliminate the inclusion of details which are centrally relevant to the product/service only as 'small print'
- How to address any specific individual communication needs the consumer may have
- Ascertaining whether the individual would like to involve an independent advocate
- Protocols for communicating with vulnerable customers
- Protocols for recording the core content of conversations between staff/agents and the consumer and for providing this information to the consumer
- Protocols for applying a Checklist to ensure that all aspects of the service/product being offered are fully understood by the consumer
- Communicating with people with different types of disabilities
- Dealing with people who have acquired hearing/sight difficulties in older age

Advocacy Support

The role of the Commission in advocating with and advising the Government and its agencies with regard to the approach to regulation is an important one. Equally important is the need to empower consumers to make better choices for themselves in the first instance and to seek redress where this is necessary. Independent advocates (e.g., available through CISs) can help people with:

- Understanding their rights as consumers generally and in respect of specific financial products/services
- Completing paperwork and documentation relating to redress mechanisms
- How to complain and where to complain

Citizens Information Services (CISs), the Citizens Information Phone Service (CIPS) and MABS have a potentially important role in this regard and this role could be referenced in the Commission's Strategy Statement.

Consumer Issues Identified by CIB Delivery Partners

Feedback from CIB delivery partners highlights a range of consumer issues relating to telecommunication services, utilities and financial services. A number of case

examples are provided in an Appendix which are indicative of the types of consumer issues identified.

Telecommunication Services

The feedback has referenced difficulties experienced by people in dealing with telecommunication services, in particular, people agreeing to new and binding contracts with telephone service providers without being aware that they are so doing. Examples of difficulties with contracts with telephone service providers are provided in Case Examples 1-7.

The case examples highlight the need for telecommunication companies to make it clear to their customers that any changes to the service provided triggers a new contract and that the customer will be subject to penalty fees if they change supplier or close their account before the contract ends. Older persons, in particular, who never had contracts, have agreed to contracts unaware of the commitment involved. It would appear that in some instances such contracts were initiated on the basis of a telephone conversation with the consumer. Difficulties in making telephone contact with telecoms providers are also noted.

Electricity Providers

Issues with electricity providers are also referenced in the feedback from delivery partners, including inaccurate/incomplete information from electricity provider (see Case Example 8).

Other Issues Identified

Other issues identified included:

- Difficulty in getting landlord to return deposit (Case Example 9)
- Difficulty with outstanding debt on pay as you go meter provided to new tenant (Case Example 10)
- Getting bank statements required for Rent Supplement application (Case Example 11)

General Points for Consideration by the Commission in Developing the Strategy

Collaboration with Other Agencies

There is an obvious need for the Competition and Consumer Protection Commission to work collaboratively with relevant agencies in the consumer protection field, including, the Central Bank Consumer Protection Section (in particular, its recently published Consumer Protection Outlook Report⁶, the Financial Services Ombudsman and the Commission for Energy Regulation (CER). Provision for such collaboration should be made in the Commission's Strategy.

⁶<http://www.centralbank.ie/publications/Documents/Consumer%20Protection%20Outlook%20Report%202015.pdf>

The CIB believes that there would be much merit in the Commission exploring the social obligations dimension in service provision along the lines developed by the Office of Gas and Electricity Markets (Ofgem)⁷ in the UK. Ofgem works towards:

- Promoting value for money
- Promoting security of supply and sustainability, for present and future generations of consumers, domestic and industrial users
- The supervision and development of markets and competition
- Regulation and the delivery of Government schemes.

Energy suppliers are required by Ofgem to take all reasonable steps to assess 'ability to pay' and to avoid disconnecting certain groups of customers. They are required to ensure that they keep abreast of best practice in debt and disconnection and review and adjust their policies accordingly. As part of their licence conditions, suppliers are required to provide information to Ofgem on their *social obligations* performance, including levels of debt and disconnection, payment methods; prepayment meters; and help they provide to vulnerable consumers. This is reported on bi-annually.

Research Evidence

Critical to the work of the Commission will be the use of research and evidence-based data to inform strategic development and implementation. To this end, the Commission should establish collaborative working mechanisms with frontline service providers, including, MABS, Citizens Information Services and the Society of St. Vincent de Paul.

Education and Public Information

It is suggested that a priority strategic goal for the Commission should be a public education and information campaign which focuses on the rights of consumers, promotes an ethos of compliance among service providers and encourages people to make informed consumer choices.

⁷Ofgem is a non-ministerial government department and an independent National Regulatory Authority, recognised by EU Directives with the principal objective of protecting the interests of existing and future electricity and gas consumers. See <https://www.ofgem.gov.uk/>

APPENDIX
Consumer Issues: Case Examples Reported by Citizen Information Services

Contracts with Telephone Service Providers

Case Example 1

A woman contacted her service provider last week to cancel her landline and was told there was a disconnection fee of €180.95 as she had a contract with them until next May. She was unaware of having any such contract. The CIS contacted the provider on the woman's behalf and were advised that she had a contract since last May when she rang to disconnect but was offered a package deal and a credit on her next bill and accepted the offer. However, the next bill did not reflect the promised credit and hence her decision to cancel her landline.

Case Example 2

A woman had sold her house and had tried to close her account with her telephone provider. When she rang she was told that she had to wait 4 months to close the account. On contacting the provider, the CIS was advised that the woman had a 12-month contract which would expire in November. The woman stated that she had been a customer for 17 years and had no recollection of making any changes to her account in November of last year.

Case Example 3

A 74-year old woman with hearing difficulties received cold call from a provider offering a telephone package. She switched over and then received a large bill from previous provider due to fact she left before contract ended. She also received bill from the new provider which was higher than the amounts discussed in initial call. She decided to switch back to but had difficulty in getting the Universal Account Number needed. The CIS assisted the woman in dealing with both providers.

Case Example 4

Client signed up for broadband but was unable to connect to the Internet from day one. She was advised by Customer Services on several occasions that there was no issue with the connection and that the fault was with her equipment. She received two bills which she paid. Following protracted intervention by the CIS with different sections, they accepted that the connection did not work and agreed to refund the payments made.

Case Example 5

A man queried a bill with his provider customer services and was informed that he had entered into a contract over the phone and this bill was for a cancellation fee. He was not aware that he had entered into a new contract with the service by means of a phone conversation.

Case Example 6

Difficulty in contacting Telecoms Provider

A pensioner cares for her brother who has a terminal illness and lives in a separate house. Both had telephone land line disconnected due to arrears of less than €200 on each account. She phoned telecoms provider to notify that payments had now been made but the lines remained disconnected. She had great difficulty making contact with Telecoms provider – it took 2 hours to get through to get matters resolved, no option to speak to a representative in person. Eventually in order to get a reconnection as a matter of urgency, it was necessary for the client to utilise the ComReg Complaints Service.

Case Example 7

Double Billing

A man moved from one provider to another and was told the new provider stated that they would take care of cancellation fees. However, he has been receiving two bills. “There was difficulty in contacting both providers to get the matter resolved”

Electricity Providers

Case Example 8

Inaccurate/Incomplete information from electricity provider

A couple reported to the CIS that they were told by a door sales person that they only needed to sign the new contract to change supplier and that they could continue to pay their bills through the Post Office as previously and that there would be no additional charges. They subsequently received a bill for €300 deposit on the basis that they were required to pay the deposit or provide direct debit details. The couple stated that they were misled. When the Information Provider phoned the company on behalf of the couple, the company acknowledged that the information given by the sales person was inaccurate and that they would address this matter in the training programme for sales persons. However, the deposit remains outstanding until a direct debit is set up.

“Companies that operate doorstep sales must provide a professional service using standards that would give the consumer the comfort that the information given is correct” (Information Provider)

Other Consumer Issues

Case Example 9

Difficulty in getting landlord to return deposit

Client has requested her security deposit from her previous landlord, after he sold the house which she is living in. I phoned the landlord to clarify why he has not returned the deposit and am waiting for a return call.

Case Example 10

New Tenant and Pay as you Go Meter

A person who is in receipt of Electricity Allowance under the Department of Social Protection Household Benefit Package moved house to accommodation where a pay as you go meter was installed and was given easy pay card by the agency to top up this account. Once the first top-up was done, a percentage was taken out immediately to pay debt of the previous owner. It took significant time to change from pay as go to a standard meter especially as the person wished to stay with their own electricity provider. "A landlord or agency should not give client an easy pay card used by the previous owner but request a new one for their new tenant" (Information Provider).

Case Example 11

Getting bank statements required for Rent Supplement application

A client came in seeking help with his Rent Supplement application as his bank had refused to give him 6 months of statements and provided only a one month computer printout. I phoned the branch in question and advised them that the DSP requires 6 months of statements for this application and they agreed to send them to the client although at a charge he can ill afford.