Public Consultation: Impact of Sales Incentives on the Sale of Consumer Credit Products

Response to Public Consultation received from CGAP

FinCoNet
INTERNATIONAL FINANCIAL CONSUMER PROTECTION ORGANISATION

FinCoNet ***Consultation Paper on Impact of Sales Incentives on the Sale of Consumer Credit Products*** (the Consultation Paper) is a very solid and comprehensive piece of work and we would like to congratulate the FinCoNet team for the work done. The recent discoveries in the United States concerning mis-selling practices, unsuitable cross-selling, and opening of fake accounts all with regard to credit cards, among other products, make the Consultation Paper and the provided guidance extremely timely.

General Comments

1. The survey findings as well as the guidance proposed in the Consultation Paper inevitably raise broader questions beyond the immediate focus of FinCoNet's work, most importantly the question of what are the determining factors that ultimately affect the design of sales incentives. These factors have likely to do with (i) the top management's remuneration structures, (ii) stockholders' expectations and overall market pressures on continuous growth, and (iii) profitability of certain products as compared to others. It may be worth acknowledging that while proper design, monitoring, oversight and disclosure of sales incentives are essential to implement (or restore) a consumer-focused culture, it may not be enough as there are other factors affecting the tone at the top and overall corporate culture.

2. For the purpose of the Consultation Paper, consumer credit is defined to mean *"credit provided to individuals for personal, domestic or household purposes and not business purposes"*. However, in many markets, particularly in developing and emerging economies (EMDEs), the difference between consumer credit as defined by the Consultation Paper and credit taken by micro-entrepreneurs is often blurry. By the same token, many micro-entrepreneurs, small- and medium-sized enterprises are often as vulnerable borrowers as individual consumers and deserve similar level of protection. Therefore, we suggest the Consultation Paper specifically emphasizes broader benefits of the suggested guidance if implemented vis-à-vis borrowers who do not necessarily meet the criteria defined in the Consultation Paper.

3. In theory, the consumer credit definition in the Consultation Paper includes credit provided over crowdfunding platforms (e.g. P2P lending). Operations of debt-based crowdfunding platforms vary significantly depending on the business model and regulatory framework concerned. Arguably, some crowdfunding platforms are prone to similar kinds of issues as described in the Consultation Paper. This may be worth acknowledging.

4. It would be to the benefit of the target audience if every guidance was illustrated by a practical example of how the suggested guidance has been implemented.

5. The Consultation Paper mix incentives provided to consumers and to financial institutions staff. Rewards, gifts, promotional interest rates and bundled products are linked to product design and attractiveness, adding a second layer of complexity beyond staff incentives. Incentives offered to consumer not only may lead to harmful side-effects but can blur comparability among similar products, hindering competition. Thus, we would suggest them to be treated in a different paper, exploring its consequences in a complete way.

Specific Comments

6. We agree with the pre-conditions identified in the Consultation Paper, however we would consider jurisdiction over corporate governance, as corporate culture is one of the main drivers of harmful sales incentives. We would suggest to emphasize more prominently that an adequate legal and regulatory framework, which is proportional and activity-based needs to be in place too. Further preconditions implicitly covered by the proposed three are: (i) a cooperation and coordination framework if more oversight bodies share responsibility for consumer protection in relation to consumer credit, (ii) an effective mechanism to ensure accountability of and control over the agency responsible for consumer protection in relation to consumer credit, and (iii) activities to support financial capability of consumers.

7. We suggest the following change under the Guidance on Appropriate Oversight, 2nd bullet point: *"incentives to staff and credit intermediaries who sell **and/or market** consumer credit products".*

8. The example provided for "*cross selling*" section raise a question about the boundaries of a financial regulation. It is not clear the possibility of a financial regulator to impose standards for sales incentives on a different sector (like car dealers).

9. We suggest to add a third bullet under the *Guidance on Consumer-focused Culture* to include the non-financial incentives that were mentioned or penalties that are beyond variable remuneration, like being dismissed for poor sales performance.

10. Guidance on General Duties and Specific Responsibilities: Are the examples of the types of restrictions presented in any particular order. Is there any evidence that some of the restrictions work better than others, which could be shared at this point? When thinking about the best interest of customer, the first question is the capacity for repayment, however secured loans offer an additional incentive for push marketing, the low credit risk. Should it be taken into consideration for the sales incentives?

11. Guidance on Oversight of Different Sales Networks: We suggest to replace 'Networks' by more generic 'Channels'.

12. Guidance on Oversight and Governance: We suggest to replace 'Oversight' by 'Internal Control' to avoid duplication with external oversight as exercised by a supervisory agency.

13. Guidance on Disclosure. What is the level of disclosure would be recommended? Is it needed to disclose the amount that would be paid to staff? This might have implications in creating shadow negotiations of commissions paid. This happened in Brazil, in which credit agents started to offer percentages of commissions paid by financial institutions to clients in order for them to switch financial service providers, creating a more complex comparability in the market (they would have to compare not only APR, but also the amount they receive upfront).