

Debt Management Firms – regulatory reform

Around forty representatives from consumer advocacy organisations, industry associations, ombudsman schemes, government agencies and regulators met in Melbourne on 18 February 2016 to discuss the social and industry impacts of businesses that provide quasi-financial service “solutions” to consumers with debt problems or who have concerns about their credit worthiness.

The Roundtable followed the release of a report in January 2016 by the Australian Securities and Investments Commission (ASIC), *Paying to get out of debt or clear your record: The promise of debt management firms*.

Debt management firms promise to help consumers in financial hardship or with listings on their credit reports, claiming to assist through debt negotiation, ‘repairing’ credit reports, advising and arranging debt agreements, and developing and managing budgets.

Consumer advocates have significant concerns about the conduct of debt management firms, including the charging of high up-front fees for services of little value, poor or inappropriate services that can leave consumers worse off, and misleading and predatory behaviour affecting consumers in financial hardship.

Industry and ombudsman schemes have concerns about the implications of debt management firms for their organisations, including the significant costs incurred dealing with debt management firms pursuing complaints that may not be meritorious or in the interests of the consumers they claim to represent.

Where the promises of debt management firms do not meet expectations, this can cause harm to consumers and sometimes leaves them worse off. The cost is often shifted to taxpayers, when consumers are, or become reliant on government support services and welfare.

Professional and independent financial counsellors and some financial institutions, including banks, mutual banks, credit unions, building societies and debt collectors, provide information and support to people in financial difficulty for free. Ombudsman services provide a free dispute resolution channel for consumers.

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Working together—consumer protection and regulatory reforms

“A new regulatory framework would bring these businesses into line with other financial services in Australia”

Improved standards of conduct by debt management firms, protection of consumer interests, the enhancement of consumer outcomes and a reduction in industry costs could be achieved with the introduction of a regulatory framework for debt management firms. This framework could include licensing as well as rules to regulate business behaviour. Similar measures have been implemented in the US and UK to successfully deal with the problems associated with debt management firms.

A new regulatory framework would bring these businesses into line with other financial services in Australia, including credit providers, finance brokers, debt buyers and financial advisers, which currently need to obtain a licence from ASIC and abide by a range of consumer protections and regulatory obligations.

Requiring membership of an Ombudsman scheme would give aggrieved consumers access to free and timely complaint handling about debt management firms. Further conduct standards, for example requirements to act in the best interests of clients and to have a reasonable basis for claims lodged with industry participants and ombudsman schemes, should be considered as part of the consultation on any new regime.

Action is needed now to tackle the exploitation of financially stressed consumers, and to mitigate the unnecessary cost to business caused by the gaps in our financial services regulatory framework.

This communiqué reflects a consensus view of individuals and organisations which are listed below that participated in the Roundtable on 18 February 2016, but is not intended to be a formal policy position of the organisations to which those experts are affiliated.

Australian Bankers' Association
Australian Collectors and Debt Buyers Association
Australian Retail Credit Association
Consumer Action Law Centre
Credit and Investments Ombudsman
Customer Owned Banking Association
Energy and Water Ombudsman New South Wales
Energy and Water Ombudsman (Victoria)

Financial Counselling Australia
Financial Ombudsman Service Australia
National Legal Aid
Financial Rights Legal Centre
Telecommunications Industry Ombudsman
Gill North, Monash University
Lucinda O'Brien, Melbourne University
Ian Ramsay, Melbourne University