AUSTRALIAN COLLECTORS & DEBT BUYERS ASSOCIATION

21 April 2022

Mr D Locke
CEO and Chief Ombudsman
Australian Financial Complaints Authority Limited
GPO Box 3
Melbourne, VIC 3001

Via email: dlocke@afca.org.au

Dear David,

Proposed user-pays funding model

Thank you for this opportunity to provide feedback to Australian Financial Complaints Authority's (AFCA) consultation in relation to its proposed user-pays funding model.

Australian Collectors & Debt Buyers Association (ACDBA) on behalf of its members flags its concerns with the proposed funding model and provides the following perspectives for AFCA's consideration:

- AFCA will be aware of the detailed submission made by ACDBA to Treasury's review of AFCA, setting out its concerns around participants' needs for predictable decisions and cost efficiencies and submitting recommendations for process improvements. Many of ACDBA's suggested process improvements were aimed at reducing the cost impost for both AFCA and its members.

  To date, despite the various recommendations made to and by Treasury's review many issues of concern remain unchanged and consequently cost efficiencies are yet to be realised.

  Urgent implementation of improved processes will benefit financial firms rather than AFCA maintaining a continued and unreasonable expectation members will and can fund existing inefficiencies.

  ACDBA respectfully submits there are efficiency gains available to AFCA and its members by greater use and application of AFCA's existing Rules, particularly in respect to early closure of unmeritorious complaints and complaints where a financial firm has made a reasonable offer for resolution.

- The fees proposed under the user-pays funding model to be borne by the debt buying and collection industry are excessive: ACDBA members report receiving fee estimates amounting to increases in the range of 20% to 30%.

  A quantum increase of this magnitude is significant as our mutual members recover from the difficulties of the past 2 years arising from the pandemic. To provide some perspective, since March 2020 ACDBA members have provided very substantial forbearances to their customers to address COVID-related hardships while at the same time total collections fell 34%.

The estimated fee increases for debt buying and collection industry members add to the significant fees incurred under AFCA membership compared to their experiences as members of the predecessor scheme, the Credit & Investments Ombudsman.

- Fees under the proposed funding model are predicated on AFCA's escalating costs and despite the significant fee burden on its members it is not evident AFCA is doing anything or enough to control those costs.

  AFCA, in promoting the proposed model does not detail any financial controls implemented to contain its rising costs, instead promoting the model as rewarding good performance and early resolution of complaints by members – this ignores that those same members will remain the only parties bearing the cost impost of AFCA inefficiencies.

  Despite suggestions that under the user-pays model, firms will have control over the fees they pay by managing their complaints well, they will continue to have no control over AFCA's escalating costs on which the fee structure is based.

  The model does not address the accountability of AFCA to control the nature and quantum of expenditures on such significant items as premises, systems, employment numbers and costs and outreach programs.

  Additionally, there is no transparency as to whether there is an underlying increase in AFCA's total funding achieved under the proposed funding model.

- The proposed model seeks to address perceived cross-subsidisation of larger firms by smaller members, but ACDBA submits it does so only by redirection of the cross-subsidisation to those members against whom multiple complaints (including non-meritorious and vexatious complaints) are lodged.

  There is no basis for offering members 5 free complaints when the majority of AFCA's funding comes from its members. Extending 5 free complaints will result in those members incurring complaint fees (having more than 5 complaints) funding the costs of not only their own complaints but also the 'free' complaints of other members.

  AFCA suggests 95% of financial firms will pay only their annual registration fee of $376 each year, in all likelihood making the proposed user-pays model popular for those financial firms. A similar endorsement cannot reasonably be expected from the remaining 5% of financial firms as their fees will cover the balance of AFCA's complaint resolution costs.

  There will be costs for AFCA in relation to any member against whom up to 5 complaints are lodged whenever one or more of those complaints progresses beyond Registration and Referral. Any additional costs will not be passed on to that member and instead recovery of those costs will form part of the cost structure of fees for members against whom more than 5 complaints per year are lodged.

- Notwithstanding Treasury's Recommendation 8, there is inadequate transparency around the calculation of the User Charge.

  Under the proposed funding model, the User Charge will make up 42% of funding as opposed to 8% under the current funding model, yet no information has been provided regarding how the User Charge will be calculated beyond that the eligibility threshold has increased from 2 to 6 complaints per annum.

  The material explaining the proposed user-pays funding model suggests members will have control over the fees they pay by managing their complaints well – how is this possible, when neither the presentation nor the individual advices to members of the estimated impact of the proposed model provides any visibility of the actual methodology for User Charge calculations?

Noting the cost of a Decision will reduce from $11,525 to $7,550 under the proposed model, it nevertheless appears the financial firm will still pay the ‘saving’ by way of an increase in their User Charge.

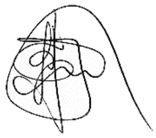
The lack of transparency of the financial modelling is unhelpful for financial firms as they endeavour to control fees by improving their management of complaints.

The proposal for the funding model is not transparent and seems to result in a substantial fee increase for any member with more than 5 complaints with no apparent basis for 5 free complaints per member, a concept incompatible with a user-pays model.

We remain concerned there are inadequate mechanisms in place to ensure AFCA controls costs, which ultimately are borne by members. One opportunity to control those costs is the early closure of unmeritorious complaints.

ACDBA submits the proposed funding model, without any increase in service or improvement to inefficient processes, unreasonably adds a further cost impost to AFCA’s members in the collections and debt buying industry.

Yours sincerely
AUSTRALIAN COLLECTORS & DEBT BUYERS ASSOCIATION



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