

Financial Services Consultative Consumer Panel

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Mr Pat Neary
Chief Executive
Financial Regulator

(by email)

29 September 2006

Formal suggestion on sanctions issues and overcharging issues

Dear Pat

The Consumer Panel would like to make the following observations and formal suggestions on overcharging and on sanctions arising from the annual report.

The Administrative Sanctions Procedure has been in place since August 2004 and can only apply to breaches of prescribed legislation after that date. The Regulator has stated that it is in favour of holding inquiries in public save where the statutory exceptions apply. The Financial Regulator adopted a policy of preferring publication of settlement agreements in response to our submission on the draft Administrative Sanctions Procedures.

We understand that only one ASP has been initiated by the Financial Regulator and this has been the one against Broadstone which you have published.

Consumers and the media find it odd that 36 financial institutions have overcharged their customers by €118m and yet no institution has been sanctioned in any way for this overcharging. We suggest that you publish the reasons for this. The headline figures of 36 institutions and €118m are very alarming. It might be argued that it is better to have €118m refunded to customers and no sanctions than to have 36 sanctions procedures in the High Court and no refunds to customers. However, if this is the policy, then it should be published.

We suggest that you provide a report twice a year on overcharging and sanctions. You should provide as much information as you are allowed to given the legal constraints. For example, what new cases of overcharging were identified during the year? In what periods did these overcharges take place? What types of overcharging were these e.g.

insurance or banks or other? The first of these reports could be for the period January to June 2006.

This report would show the public that the Financial Regulator is taking enforcement and sanctions actions and it would show the public that where such actions are not being taken, it's because you believe that there is a better way of achieving the desired outcome.

Overcharging should be a matter of public record. Where you decide not to identify the financial institutions involved you should state the reasons. No one expects the Financial Regulator to identify a company for a one off overcharge to a specific customer. We suggest the following criteria for deciding to publish details of the overcharging:

- 1) Material amounts of money
- 2) Where the media or the Ombudsman has already named the financial institution
- 3) Where a material number of customers has been affected
- 4) Where the financial institution has had a record of overcharging
- 5) Where publicly identifying the institution would enable other customers to check if they have been overcharged or not.

The report would also cover sanctions and would provide as a minimum the following information:

Sanctions Procedures published during the period

Sanctions Procedures initiated during the period

Number of Sanctions Procedures outstanding at the end of the period

Types of Sanctions Procedures

If you are to take this suggestion on board, we would be very happy to work with you further on the content and format of any such report.

Yours sincerely

Brendan Burgess
Chair
Consumer Consultative Panel