

# Financial Services Consultative Consumer Panel

18<sup>th</sup> June 2010

## Press Release

### **Response from Financial Services Consultative Consumer Panel to the Banking Industry Reports from Central Bank Governor Patrick Honohan and the Regling and Watson report**

At its meeting on Monday 14<sup>th</sup> June 2010, the **Financial Services Consultative Consumer Panel** reviewed the recent Banking Industry reports and they have summarised their views below.

The Consultative Consumer Panel welcomes the publication of the reports and supports the main recommendations that have been made.

The Panel believes that sufficient information has been provided by the Reports to prepare Terms of Reference for a future Committee of Investigation into the Banking Crisis.

The Consumer Consultative Panel is very disappointed that in particular the Honohan Report, which covers the performance of the Financial Regulator did not refer to the work of the Panel in highlighting many of the failings of the Regulator in the past number of years.

The Panel has a statutory function under the Central Bank Acts to complete an Annual Performance Review of the Financial Regulator and comment annually upon the Regulator's Budget. Equally, while the Panel was invited to appear before Regling & Watson, they were not invited to appear before Governor Honohan when preparing his Report, despite the fact that they had highlighted many of his criticisms of the Financial Regulator in its Performance Reviews/Budgetary comments.

The Consumer Consultative Panel, while it is to be dis-banded under the Central Bank Reform Bill 2010, presently before the House of the Oireachtas, believes that it adequately completed its task to protect consumers and highlight failings in the performance of the Financial Regulator as was its statutory function under the Central Bank Acts. Unfortunately Irish consumers were let-down by a Regulator which was unwilling to take on board any contrary viewpoints that did exist during the time covered by these Banking Inquiry Reports.

### Specific Comments on the Banking Inquiry Reports:

1. The Consumer Panel is very concerned with the comments made In Chapter 3 by Professor Honohan when he states that the Board of the Financial Regulator did not highlight problems with regulatory issues. There is an inference from the Governor that minutes of the Authority do not seem to suggest rigorous engagement with financial instability and the efficacy of regulatory activity. It also appears that the minutes may not have recorded how decisions were reached in terms of their rationale. If this is the situation that prevails, then this has to be a source of concern regarding the standard of governance.
2. The Panel agrees with the comments on page 43 of the Honohan Report where he states the Financial Regulator's approach to enforcement was *"to seek voluntary compliance with legislation, codes and rules"*. Furthermore on page 55 of the report he states *"it was felt that there was a danger that court cases might be lost, while attaching conditions to licenses and similar measures might attract unseemly adverse publicity and discourage promotion of the Irish financial sector."* It is a matter of documented record that the Consumer Panel highlighted this major concern in several communications with the Financial Regulator. In fact, we continually sought information on Administrative Sanctions from the Regulator. The small number of Administrative Sanctions reported on page 57 of the Honohan report indicates the reason why the Regulator was reluctant to answer our questions on the administrative sanctions taken by the Regulator.
3. Over the past five years the Consumer Panel has highlighted overcharging to the Financial Regulator and to the acting Financial Regulator in recent times. Page 56 of the report mentions the matter of overcharging but we wish to record that this was regarded as a crusade by the Panel particularly in relation to the issue of overcharging by Irish Nationwide and more recently MBNA. Whenever the issue was highlighted to the Financial Regulator the Panel was informed that "we were wrong". The Honohan Report proves that the Consumer Panel was correct all along and that the response of the Regulator was always to imply this was not a major regulatory enforcement oversight
4. The Consumer Panel has statutory responsibility to review the Annual Budget. We note the comment on the Honohan report in relation to the small number of staff available to the Financial Regulator for prudential supervision. We wish to make it clear that in all our Budget discussions the Financial Regulator never informed us that they were under-staffed despite repeated pertinent questioning

5. We note on page 67 of the report that 598 monthly returns were made in 2005 credit institutions out of approximately 960 institutions that were regulated by the Financial Regulator. We consistently sought this detailed information over the past five years without success. We understand that Anglo Irish Bank were one of the financial institutions that did consistently submit monthly returns. This refutes the argument made to the Consumer Consultative Panel by the Financial Regulator that they didn't see the loans from ILP going into Anglo Irish Bank accounts as subsequently detailed in the PWC Report.
6. We note the comments on the deposit guarantee scheme. The Consumer Panel had highlighted this issue in the wake of the Northern Rock crisis but we received a response from Pat Neary to say that we should await developments at EU level. This issue should have been taken up much earlier as we had highlighted.
7. The Panel is surprised that the Honohan Report makes no reference to the de Larosiere Report even though the Minister had requested that this would be included.
8. The Consumer Panel is also surprised that the evidence from the Mazars Report on the Financial Regulator is not utilized to a great degree. The Consumer Panel was instrumental in ensuring the Terms of Reference of the Mazars report covered the entire Regulator rather than lower management functions. The Report demonstrated many of the failings in the functioning of the Regulator which the Panel had noted in its Annual Performance Reviews & Budgetary Comments of the Regulator.
9. It is the considered view of the Financial Consultative Consumer Panel that the issue of Section 33AK really needs to be tackled. We believe that it is a chain around the necks of the Financial Regulator and it has contributed significantly to the current financial disaster in Ireland. Professional privilege already exists for any interactions between the Financial Regulator and individual banks under the EU Regulations/Directives. This issue needs to be dealt with comprehensively both in terms of the proposed Committee of Investigation into the Banking Crisis and the Second Central Bank Bill otherwise we will face another banking crisis in a couple of years
10. In relation to the report produced by Klaus Regling and Max Watson we feel that this report is signaled as being diagnostic rather than forensic and about process weaknesses or gaps rather than offenders.

11. We believe that the people's legitimate expectations must be addressed and that the disposition towards regulatory inaction has to be tackled systematically.
12. Increased internationalisation of domestic institutional capital funding has to be recognised in risk assessment and management. Any analogous developments in the future must be identified in the intelligence gathering process and acted upon in the pursuit of public policy goals. Thus more joined up international regulation is part of the prescribed treatment for the current malaise.
13. The excuse of capital market integration as a basis for regulatory or central banking inactivity, a phenomenon which also was surfaced during the DIRT inquiry (*the risk of capital flight*), should be challenged rigorously.
14. The major problems in the wholesale and corporate market sectors should be not blamed on consumer oriented regulation, even though this has a seductive appeal in some quarters.
15. A diversity of market intelligence not confined to economic data is required for effective decision making and governance in public institutions charged with developing and implementing fiscal, regulatory and macroeconomic policy.
16. The Consumer Panel supports the view that internal failures such as ineffective governance, dysfunctional remuneration, property mania, and credit management failures were central to the instability and insolvency of financial institutions and that culture, rigour, lack of critical thinking, and information and analysis deficits were central to regulatory lapses.