Which? – Written evidence (SCG0062)

Thank you for your invitation to provide oral evidence to your Committee on 15th January. As requested by members of the Committee, I am writing to follow up with more information on some of the topics discussed at the evidence session.

Consumer Protections and Growth

One of the suggested trade-offs often cited is between well designed consumer protections and long-term growth. We reject this assertion and believe consumer policy is fundamental to making markets more dynamic because it establishes the preconditions for competition to flourish. The most productive and innovative businesses need to be rewarded for their efforts. That means consumers must have good information and the ability to find the best offerings in the market. The alternative, markets characterised by misleading information and frictions making switching harder, mean consumers are stuck with firms that have little incentive to invest and innovate. As I argued during this session, the UK risks falling behind on innovations such as Open Banking, where Joe Garner's Future of Payments Review (p10) rightly identified that a lack of consumer protections, such as dispute resolution, will be a barrier to wider adoption and so negatively impact growth. Well-designed laws and regulations that empower consumers to switch from bad to good products and services and which give them the confidence to try new goods and services without the fear of being ripped off are essential to creating dynamic markets that reward business investment.

History has also shown there is a profound risk to undermining regulation in financial services, something we are very mindful of given the political discussion around the secondary objective recently given to the UK's financial regulators. There is a litany of examples where this has resulted in consumer harm. These include the surge in the use of 'payday loan' firms following the 2008 financial crash, where growth and innovation in new products masked unfair practices and staggeringly high interest rates that were passed onto vulnerable consumers.

Many of the current debates around consumer policy and regulation and economic growth suggest there is an implacable contradiction between the two. This is not the case - consumer protection remains fundamental to the proper operation of markets. We recently published a report setting this view out.

Consumer Duty

We recognise that the Consumer Duty represents a significant change for industry. The Consumer Duty has now been in operation for 18 months (for open products and services) and firms have been given significant guidance and supervisory feedback to enable them to meet the requirements of the Duty. Ahead of its introduction, the Financial Conduct Authority (FCA) sent numerous CEO letters and sector specific letters, while its final policy statement and guidance notes are 300 pages long. Since its introduction, the FCA has published a steady stream of reviews into how firms have applied different aspects of the Duty to disseminate examples of good and poor practice.

We acknowledge it is right that the FCA should minimise the cost of compliance by being clear about what is expected of firms and improving reporting processes. Any duplication and contradiction in terms of regulation should be reviewed, providing it is evidence-based and done in consultation with both industry and consumer groups. However, wholesale changes such as rowing back on the consumer duty would not be a productive way forward. This would penalise firms which have invested and innovated to improve their products to better serve customers, while the regulatory flip-flop would create damaging uncertainty.

Despite the introduction of the Consumer Duty, we continue to see poor treatment of customers and unfair practices. In the insurance sector, for example, our research and investigations continue to show that consumers are routinely let down in their time of need when making a claim and many customers who pay monthly are penalised with excessive rates of interest. The regulator now needs to be more willing to take enforcement action against firms that are consistently failing to meet the Duty, to ensure that firms that have done the right thing and invested to support good customer outcomes are not put at a competitive disadvantage. If enforced correctly, the duty should give people greater value for money and improve consumer confidence; both fundamental to raising living standards and growing the economy.

I hope that the information set out above is of assistance to the Committee’s work on the secondary competitiveness and growth objective and wider scrutiny of the financial services sector. If you or your Committee have any questions about this letter, or if you think that I can further support the Committee’s work, please do not hesitate to contact me.

28 January 2025