

**CC Briefing Seminars on Draft PPI Order
20 and 31 July 2009**

Questions and Answers

What does the Order cover?

Is long-term income protection included?

- A.1 In the report a distinction was drawn between short-term income protection (STIP) (covered by the Order) and long-term income protection (LTIP) (not covered by the Order). We have defined STIP in the Order. Where providers offer a range of cover within a suite of products, some variants may be LTIP, others may be STIP (eg because they contain short-term unemployment insurance). Whether or not a particular product is STIP or LTIP is likely to depend on the specific cover provided. We will take this away and consider any further suggestions made during the public consultation. (See also A.4.)

Definition of short-term income protection—less than five years, is that the policy or the benefits?

- A.2 We developed the definition of STIP for the public consultation by including the phrase ‘less than five years’ to distinguish STIP from LTIP. Some industry definitions focus on the duration of the policy, though the comparison of STIP and PPI policies in our report primarily looked at the duration of benefits. We will consider any further suggestions made during the public consultation on duration in order to make the distinction between STIP and LTIP clearer.

What about free or compulsory PPI offered with a mortgage? The APR shown may be different or higher for the product with the ‘free’ integrated PPI.

- A.3 If the product being supplied alongside the mortgage was PPI, then it would be covered by our Order. Consumer credit regulation would also apply in this situation in relation to the APR.

What about debt freeze products and Article 9.3?

- A.4 Article 9.3 is an anti-avoidance measure. We are not seeking to capture contractual terms in credit agreements (eg debt freeze) as these are outside our terms of reference. We would be interested in any suggestions that would make it clearer that it is only insurance products that are covered. However, we noted in the report that if these new products result in levels of consumer detriment similar to PPI, then they are likely to be subject to similar regulatory scrutiny in future.

The credit sale period

Clarity sought on definition of credit sale especially in relation to 'unconditionally bound to provide the credit'. For example a firm mortgage offer might still include some conditions (eg to have the roof or windows repaired).

A.5 We are aiming to provide a clear end point for the credit sale period which is applicable across all forms of credit. In the report we used the phrase 'unconditionally bound' to indicate a point when the consumer could be assured the credit would be granted. We have used that phrase again in the Order with the same intention but if there are practical problems with the current definition—including minor conditions that would still apply to a loan even after it has been made clear to a consumer that they will get the credit—we would like to hear about them.

What is stand-alone PPI?

What about products that are portable (that can go from one loan product to another)?

A.6 A key concept in defining 'PPI' is that PPI sold 'in conjunction with' credit is not stand alone. Clearly non-portable products to insure a specific credit agreement sold by the distributor are not stand-alone. At the other end of the spectrum, a portable product sold with nothing to do with the credit sale, would be stand-alone. There is a range of intermediate scenarios. While it is difficult to define precisely where the boundary is, it will normally be clear from the context whether or not a policy (whether portable or not) was being sold in conjunction with credit. We would welcome scenarios/ examples in response to the public consultation.

Definitions of credit arranger and stand-alone provider: could a company be a stand-alone PPI provider in some contexts but not in others?

A.7 The Order recognizes that the same firm can operate in a number of roles, depending on the context. The Order recognizes that a distributor can provide stand-alone cover. See related questions about point of sale prohibition (POSP).

Intermediaries

Articles 3.5 and 3.6: liability passes from PPI provider to Intermediary or Intermediary Network, depending on whether PPI policy is designed for the Intermediary. More guidance sought as this may be an avenue for litigation.

A.8 Article 3.5 is aimed at proprietary products of the PPI provider and Article 3.6 is aimed at proprietary products of the intermediary. The purpose of this distinction is to enable intermediaries to be able to rely on marketing material from those PPI providers, whose products are designed for sale by many intermediaries. However, if this is unclear or creates scope for disputes, then we would welcome examples of situations where problems may arise and suggestions for alternative wording.

What if a customer is referred to an intermediary for a PPI sale after a credit sale?

A.9 This would come under the definition of an Associate and the POSP would likely apply.

Obligations to provide information

Could oral disclosures be given in the pre-recorded part of discussions with customers? Or would they need to be given during the sales conversations with customer?

A.10 There is a need for oral disclosures to be made prominently and not marginalized as 'small print'. Oral disclosure also involves the seller dealing with questions from the customer. The outcome this is aimed at achieving is that the customer can make an informed purchase decision. This would be impractical if the customer can only rely on pre-recorded information.

Provision of personal PPI quote and obligations on providers to make Oral Disclosures when making a marketing statement (Articles 3.7 and 7.1):

If the customer was being told about PPI during a credit sale and was then passed to someone on a telephone for a more detailed discussion would that be counted as occurring 'on the same occasion' (ie could the quote and oral disclosures be given during the second conversation rather than the first)?

A.11 We are not trying to catch 'signposting', for example, 'PPI is available with these products'. The obligations to provide oral disclosures and personal PPI quotes come into force in situations where substantive information is given to the customer about PPI.

How flexible will the CC be with allowing firms to vary the informational remedies to reflect new or different products?

A.15 As flexible as can be but consumers must find the information easy to use and compare. We are being more prescriptive with annual reviews and quotes where consumers told us that comparability was important, than with marketing materials where we are leaving more scope for providers to articulate the benefits of their products whilst including the important key messages we have set out in the Order. Firms also need to make sure their marketing materials are in line with regulatory requirements such as the FSA rules on material being 'fair, clear and not misleading'. If you see specific areas in which more flexibility would be needed, please tell us in responses to the consultation.

Annual Review

Clarity sought on what 'lapse' means and when the policy has lapsed, eg provider cancels policy due to fraud or situations where provider chooses not to send communications to customer. Cancellation period for credit cards can be zero days.

- A.16 We identified three scenarios in which an Annual Review need not be sent, which may not be all encompassing. Further information is invited by way of examples which we will consider. The cancellation period for a policy should be given and if it is zero days then that should be included.

Claims ratios

What is the purpose of disclosing claims ratios to customers? Possibly use other information such as claims accepted and declined?

- A.17 In the report we said that we found this to be relevant information in considering the value for money offered by PPI. We said that it was not intended as core disclosure to consumers (eg in personal PPI quote) and we noted that claims ratios are likely to be of more interest to informed and motivated third parties (eg consumer groups).

Claims ratios defined as exclusive of IPT (insurance premium tax): would corporation tax also be excluded?

Claims ratios to be provided three months after end of calendar year: where a firm does not report until the 2nd financial quarter it would find it much easier to comply if the claims ratios were provided three months after financial year-end.

- A.18 Will take these points away and consider.

Comparability of claims ratios provided (Article 6): CC needs to be more prescriptive in definition of, for example, claims reserves to insure that comparing like with like.

- A.19 We will wait to see what submissions are received on claims ratios and move from there. We are reluctant to start setting detailed accounting standards for insurance industry as guidance already exists from the ABI and for completion of FSA returns. We are looking for an approach that is consistent with existing guidance.

Personal quote

The suggestion created by the wording in the personal quote that there is a better deal out there may be wrong.

- A.20 The objective here was to steer the customer to take a look around to see if there is a better deal elsewhere. We considered that robust wording was required to achieve this objective.

If a lender offered unemployment cover to a consumer would this always trigger a personal quote (for example, even if the consumer turned down the

offer at the credit POS)? Concerned that too many personal quotes would be triggered and customers would receive information on products they did not want. Clarification sought on the definition of marketing statement in this context.

A.21 Will take the point away and consider it. We do not want to force consumers to take information that they have said they do not want. However, we would need to check that it did not open a loophole for firms to avoid giving a personal quote in situations in which they were intending to re-contact the consumer to sell PPI. We will consider examples of other scenarios in which personal quotes might be given 'unnecessarily'.

Why is quotation for duration of credit agreement not in line with examples of FSA, eg mortgages or length of time people keep the product? Different in way total cost of PPI presented (FSA allows total cost to be shown for a mortgage as the typical length of time consumers keep a policy (eg five years).

A.22 Customer testing showed clear support for 'lifetime' cost of PPI. Customers found this useful as it made them think about the potential scale of commitment. FSA rules require that firms must give a measure of the total LIFETIME cost of PPI, and this could include illustrations of costs over a range of time periods, for example 5, 10, 20 years. We will look at this again and discuss with the FSA.

What version of the quote would need to be provided if a lender sold a portable PPI policy (ie not directly connected to meeting repayments on a specific loan) alongside a personal loan?

A.23 PPI sold alongside a personal loan with the aim of insuring monthly repayments on that loan is PLPPI, rather than stand alone. In this situation the PLPPI quote would need to be used, including a combined APR.

The Order makes provision for stand-alone PPI (including sales by distributors six months or more after the credit sale) to use the stand-alone form.

PPI sale after customer has had credit product for six months: is the provider still obliged to give PPI quote? What form of quote?

A.24 Yes, would have to provide quote and for a MPPI policies the stand-alone quote would be acceptable. We would welcome feedback on the appropriate form of the quote to use after six months for other products (eg for credit card PPI or retail PPI.)

Bottom line of the statement: if a provider does not require its customers to give any notice to cancel does it need to say 'by providing 0 days notice'?

A.25 We will look to consider whether the form could say 'You can cancel your PPI at any time immediately' in these circumstances.

How does the PPI quote refer to the pricing information to be provided under ICOBS (eg does the price in personal quote need to include IPT)?

A.27 Total price includes all elements that would be paid by a customer. The objective is to provide realistic quotes. So if a customer would pay IPT this should be included in the quote. We are trying to avoid unnecessary extra paperwork, so that the personal quote should include the necessary pricing information under ICOBS. But if this were

not possible in a particular situation, the customer would need to be sent PPI quote and the information under ICOBS. Regarding IPT our understanding is that this is rolled into the price and paid through the firm so does not need to be identified separately. However, ICOBS 4.3 would require that where the firm is charging a fee on top of the premium for an insurance mediation activity they must disclose the details of this separately.

The types of premiums are limited to annual and monthly: why could there not be biannual or quarterly as this would be more flexible for the customer?

A.28 We are not aware of biannual or quarterly premiums in the market at present, though can see that it is possible that firms may want to offer this. There is a possible risk that allowing more pricing structures could make it harder for consumers to make comparisons that is why in the report we have said that premiums must be either annual or monthly. However, we can see there may be a case where a consumer may want to pay in biannual or quarterly blocks and we will take this away and consider.

Combined APR

How does the Combined APR quote apply to intermediaries?

A.29 The Order recognizes that an Intermediary could use the stand-alone quote (ie without combined APR). A pragmatic decision would be required, given the need for intermediaries to combine information from a range of credit and PPI providers.

Combined APR in Personal Quote will not be effective if not also required of stand-alone providers and intermediaries.

A.30 We are not requiring a combined APR for stand alone and intermediaries as a matter of practicality. Some stand-alone providers might decide to provide a calculator on their website to show combined APRs and compare against taking distributors' own PPI products but we are not forcing this. We do not agree that limiting this disclosure to distributors renders the measure ineffective.

The combined APR has two benefits—as a tool for consumers to compare the cost of a bundle of credit and PPI; and as a way of illustrating to credit consumers that PPI is a substantial additional cost and worth considering in its own right.

APR is seen as interest in the traditional sense. Customers may not recognize that this combined APR includes the loan rate AND the PPI.

It may give a competitive advantage to the stand-alone providers. Showing monthly cost may be a fairer way.

A.31 Consumers found this presentation helpful when we conducted our consumer research. We also took account of consumer research when deciding how the combined APR is presented to consumers in the personal PPI quote. We had no evidence that, when presented in this context, consumers failed to understand that the combined APR included the loan rate and the PPI.

Point of Sale Prohibition

What if an intermediary firm is advising customers on PPI across the whole market? The customers can not then go and get a better deal. Why would you need a point of sale prohibition?

A.32 When we looked at the intermediary sector we found that generally consumers did not get market-wide advice. So, intermediary sales are also subject to the POSP. If an intermediary was genuinely searching the market for the best deal, then consumers may well choose to return if they find that further search does not lead them to a better deal.

Next day/24hours: what if a customer was seen at 3pm yesterday and came in at 2:30pm. Would they have to be sent away? Posting out documents might add two more days.

A.33 This was considered and the view was taken that limiting the period before a customer can return to buy PPI to 'the next day' would not be a great enough separation, so 24 hours was adopted.

It is very hard to prove a customer came in 24hrs before: could this be somewhat contentious? Why not specify this period in days (eg two business days?) There may be situations where a customer is sent away (eg if they return to buy PPI at the branch or before 24 hours have elapsed)?

A.34 The firm could go to 'two business days' if that made it easier as 24 hours was a minimum period. We considered whether a shorter period should be allowed for this limited exception from the seven-day POSP. The view was taken in the Final Report that limiting the period before a customer can return to buy PPI to 'the next day' would not be a great enough separation between the credit sale and the PPI sale, so 24 hours was adopted.

Need to ask questions to get to the quote. Distinction between fact finding and making sale: when does the clock start ticking?

A.35 We have not ruled out giving advice at credit POS, nor imposed restrictions. Firms can recommend PPI be taken out later, but if they do so, they will need (a) to meet informed decision standard at PPI sale and (b) provide balanced information at credit sale. Clock starts ticking at the end of the credit sale or, if later, the provision of a personal PPI quote.

How does POSP operate where companies operate in a variety of capacities? Example of customer going to branch, receiving a quote for a policy underwritten by an insurer (whose name is mentioned during the credit sale) and then going home online and looking to take out a stand-alone policy from the insurer or another stand-alone product underwritten by that insurer. Would that be a breach of the Order?

A.36 This would depend on whether or not the insurer or the third party was an Associate. The purpose of including Associates within the scope of the POSP is to avoid circumvention by directing the consumer to a party not subject to the prohibition. However, we also do not want to prevent development of stand-alone markets. We would welcome submissions on how best to address this type of situation.

Application of POSP where suppliers offer a range of PPI products: for example, what if a customer is given a quote for silver cover, but after search comes back and wants gold or bronze. Does another prohibition period commence?

A.37 No, the situation was considered at paragraph 10.109 of the CC report. The consumer would have to be given a personal quote for the revised cover but there would not be a second prohibition period.

Single premium prohibition

Could a customer choose to pay 18 months of PPI insurance in advance?

A.38 We said before (A.28) that we would consider the circumstance of a consumer requesting to make monthly premium payments in blocs. However, if a company developed a practice of systematically prompting consumers to make premium payments over a longer term such as paying the entire premiums up front this looks like that would be a breach of Article 10 of the Order. If a small number of customers explicitly requested to pay more than one year's premium upfront, then this might be seen as a minor breach.

Charges

Article 10.3: does prohibition on additional charges for set up/administration etc also apply to the back book of policies?

A.39 No, it only applies to policies made after that article of the Order comes into effect.

Compliance and enforcement

Has the OFT been working with the FSA to ensure a streamlined approach to monitoring and enforcement?

A.40 Yes. A hallmark of the inquiry has been the close working relationship between the three agencies.

Under current requirements will have to provide disclosure at both credit and PPI point of sale. This will create twice as much disclosure and compliance risk.

A.41 We have and will continue to discuss with FSA the interaction between our remedies and ICOBs. The Order does not create duplication but it does ensure that consumers have the information they need to make an informed decision at the point of sale of the PPI. Firms will have choices about how much of the PPI sales process to carry out at credit point of sale. A firm can choose where to start the process which triggers the ICOBS PPI disclosure rules. It is partly in firms' hands to decide how much they will duplicate disclosures but the important thing is to ensure that the customer is provided with appropriate information at the PPI sale to enable the consumer to make an informed decision and that all relevant oral disclosures are appropriately undertaken in good time. Ultimately it is the firm's responsibility to ensure that the customer can make an informed decision based on the information it has disclosed/ provided and that the relevant oral disclosures have been made in good time and prior to conclusion.

The mystery shopping requirement is too prescriptive: over 300 different points which could fall short of the Order. Do not want to be dragged over the coals for minor technical breach.

A.42 Any response would be proportional to the breach which occurred and whether it was indicative of normal behaviour of company. Also the exercise will be used to pick up market trends as well as a compliance monitoring tool.

What is the position if a firm's business model does not fit into the provided definitions, for example if a company is not a PPI Provider as defined but handles the administration on behalf of intermediaries and underwriters. What would be its obligations for requirements such as mystery shopping?

A.43 Administrators are likely to have compliance responsibilities in relation to those elements of the remedies package which relate to activities that are under their control (eg marketing materials for their products, single premium prohibition). We will look again at the definitions to ensure that the responsibilities of all relevant market participants are clear.

How are firms to evidence compliance with obligations to make oral disclosures in face-to-face communications?

A.44 We have not prescribed every aspect of how this should be done or require evidence of every single sales conversation. The type of evidence that OFT might look at for compliance includes sales scripts and demonstrations that there are effective internal systems in place to ensure that these disclosures are given. Oral disclosures are also one aspect of compliance that would be monitored by mystery shopping.

What are the practicalities of appointing a compliance officer for smaller players?

A.45 OFT will write to major providers and trade bodies about this.

Review of the market

When will the market be reviewed by OFT to see if these measures have been effective?

A.46 It may be in several years. OFT have a duty to review but we can not say when that may be.