

27<sup>th</sup> May 2004

Ms Eve Engledow  
FSMA Secondary Legislation consultation responses  
Financial Stability and Regulatory Policy Team  
Room4/23  
H M Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

Dear Ms Engledow

**Re: FSMA two-year review: the impact of FSMA on Advice Centres**

**1.0 Background to CPP Group Plc**

- 1.1 CPP Group Plc is a leading international consumer assistance business, providing a wide- ranging portfolio of assistance products and services. With international headquarters in York, England, we have operations throughout the UK as well as in USA, France, Spain, Portugal, Italy, Germany and Ireland.
- 1.2 Established in 1980, CPP Group now employs over 1500 staff who handle over 11.0 million phone conversations per year. It is the business partner of choice for over 350 leading consumer brands in the financial services, utilities, telecom, and retail sectors. CPP Group has a worldwide base of over 11.3 million customers. In 2002, group revenue was £105.3 million.
- 1.3 CPP Group Plc provides a range of assistance products and services that give peace of mind to customers and enables our business partners to forge closer relationships with their customers. Products include card protection, mobile phone insurance, home emergency cover and personal finances management.

**2.0 Background to the Development of CPP's Financial Health Product**

- 2.1 In 2001 CPP acquired Debt Management Associates (dma), a fee charging debt management business with the aim of providing an ethical and sustainable service to those in financial difficulty. Working closely with the Debt Management Standards Agency (DEMSA), dma acquired customers through referral by our business partners, rather than expensive advertising which competitors recovered through high front-end fees. The business continued in this form until summer 2002, when CPP decided to provide Financial Management in a more innovative and relevant way.

- 2.2 The un-predictability of everyday life and the continued rise in the level of UK consumer indebtedness means that a wide range of people risk increased debt burden or reduced ability to service debt. Products and services do exist to support customers but they predominantly focus on those who have already fallen on hard times, such as debt management programmes. Government and industry-funded services such as National Debt Line and CABx work hard with debtors but, by their own admission, cannot cope with the levels of demand. For those with surplus income or money management issues, the commercial services on offer are all designed to encourage the customer to take on board other products such as loan consolidation, savings products or term insurance. None of these services focus on preventing consumers/individuals getting into financial difficulty, and they only address one aspect of personal finances.
- 2.3 The opportunity for a holistic financial health product became apparent in the UK from September 03 with escalating media attention on massive levels of UK indebtedness. Alongside this, September saw the unprecedented move by the Government of calling in the top five lenders to justify their lending practices, together with the OFT challenging store-card issuers over high APR's. November saw the first rise in base rates for 4 years and with experts predicting a 5% base rate by the end of 2004, consumers experienced their first real wake up call regarding a rise in the cost of their borrowing.

### **3.0 Overview of CPP's Financial Health Product**

- 3.1 CPP's Financial Health product is designed to protect a consumer's financial well being on an ongoing basis. Whether support is needed to help customers achieve a specific financial goal by more effective budgeting, or emergency support is required because debt levels have become unmanageable, customers can access a range of benefits to keep them on track. Financial Health includes un-metered access to a money advice help-line and, in those instances where a customer needs more remedial support, a debt management programme is offered. Financial Health is either given to customers free of charge (funded by the lender) as part of their holding of a lending product, or the customer can purchase 'annual membership' directly. Regardless, all help provided is free at point of need.
- 3.2 The money advice consultations we provide to customers are detailed, thorough and by their very nature, holistic. As such, they may well include discussions around mortgages, credit holdings, pensions, net worth assessments and refinancing options. In line with the current financial promotion regulations, we do not provide direct referrals to product providers and therefore do not receive, solicit or accept any commission.

### **4.0 CPP's Compliance Environment**

- 4.1 CPP currently operates within a highly regulated environment. Our Homecare business, which delivers our mobile phone insurance product, is fully regulated as a General Insurer. From January 2005, all remaining CPP businesses will be regulated as Insurance Intermediaries. Along side this, we follow OFT guidelines for Debt Management and are audited annually by DEMSA to ensure compliance. CPP's Financial Health product offers money advice within the boundaries of the FSMA 2000. The advent of Mortgage regulation in October 2004 will mean that

CPP operates within a broader regulatory landscape but we do not envisage that we will substantially change the scope of advice we provide.

## **5.0 Response to Questions**

5.1 Although chapter 3 of this consultation paper refers specifically to creating an exemption to FSMA regulation for those free advice centres in the not for profit centre, many of the issues raised are clearly extremely pertinent to CPP, and organisations such as CPP need to be considered as part of this process. This has prompted our response.

### **5.2 Question One: Do you think that the current scope of the financial promotion restriction creates uncertainty or is unduly restrictive of the work of advice centres?**

As CPP provides no referrals and makes no specific product recommendations, we believe that it is possible to operate within the current regime. However, CPP believe that the as yet undefined notion of ‘generic financial advice’ means that money advisers are presented with some challenges in determining the boundaries between regulated and non-regulated activity. The result may be that some advisers may not disclose all the options open to a person in financial difficulty. This in itself cuts across the principle of holistic advice where all factors relating to a customer’s financial life are discussed and assessed so that the best way forward can be agreed and acted upon. Conversely, the result may also be advisers do provide specific recommendations to customers to the detriment of that customer.

*Key points: CPP believe it is possible to work in the current regime but welcome a definition around the notion of ‘generic financial advice’.*

### **5.3 Question Two: Do you think that there should be a specific financial promotion exemption for advice centres?**

CPP believe that it is possible and should remain possible to provide generic money advice without introducing a financial promotion exemption for advice centres. The role of regulation is clearly to protect consumers from poor and inaccurate advice. The creation of an exemption could fundamentally undermine consistency and consumer confidence in the industry as a whole. More concerning is the likely impact of a two tiered approach where the ‘traditional free sector’ such as NDL, AdviceUK membership and CABx who are the life line of a large proportion of low income consumer groups are unregulated, but the commercial sector such as CPP are. This may create the perception across consumers that only those that can afford to pay membership fees are entitled to the protection that regulation provides and may create the false impression that advice centres are not giving correct advice and hence do not add value.

Commercial organisations like CPP play an important role in the field of “free at point of need” money advice, increasing the supply of these types of services along side CABx, NDL et al. Therefore, if it is deemed that an exemption is extended to the advice sector, CPP welcome a consistent approach regardless of the funding and legal structure of that organisation. Failure to do this may result in some organisations accessing a compliance loophole where they alter their legal structure in order to gain exemption.

*Key Points: CPP do not support a specific exemption for advice centres but do seek clarification on 'generic financial advice'. If exemption is considered suitable, it should be extended across all advice centres regardless of legal structure or funding status.*

**5.4 Question Three: Is there a case for further legislation?**

CPP do not believe there is a need for further exemption. Indeed there is a risk that if exemption is considered appropriate, that this is too broad in its nature. Very specific definitions will be required to ensure that the industry as a whole understands the notion of 'generic financial advice'. The broader advice industry needs to avoid well-meaning advice, which goes beyond objective suggestions and into specific recommendations.

*Key Points: Failure to provide a specific, clear and narrow definition of any exemption will create confusion across the advice sector and consumers.*

**5.5 Question Four: Do you think that there should be additional legislation to confirm that advice centres are not carrying on regulated activities?**

CPP believe that there should be no exemption extending to any advice centre that may still allow them to undertake regulated activity. CPP welcome legislation that serves to provide clarification on the boundaries of generic financial advice and this should be applicable across the broader advice sector.

*Key Points: No exemption to regulation should be extended to the advice sector regardless of the funding and legal status of the advice centre.*

**5.6 Question Five: Do you agree with the proposed conditions for exemptions relating to advice centres?**

CPP do not agree with the proposed conditions for exemption relating to advice centres. To protect the integrity of the money advice sector (which now includes ethical for-profit (and not-for-profit subsidiaries of for-profit businesses)), any approach should be consistent. If it is determined to exempt certain bodies from the provision of the regulation, the exemption should apply by reference to the activity carried on, not the for-profit status of the entity which carries it out. Moreover, the definition of exemption should be narrow, clear and easy to enforce.

*Key Points: For profit advice centres play a key role in increasing the supply of money advice services in the UK and should be considered as part of consultation.*

**5.7 Question Six: Do you think that there should be other conditions (e.g. minimum competence criteria and specific PII thresholds)?**

CPP believe that there should be minimum competency levels agreed across the industry as a whole regardless of regulation and the structure of the advice centre. The value of any advice centre is delivered through the quality, thoroughness and accuracy of advice. This should be upheld at all times. We should not forget that advice at a CABx is often provided by people who are active in the financial promotion area themselves (e.g. solicitors) – should they be regulated in their offices but not in the CAB?

*Key Points: Minimum competency levels should exist and generic advice should be defined and operated within a regulated environment.*

**5.7 Question Seven: Do you agree with limiting the exemptions to mortgages, endowments, pension products and shares?**

CPP do not agree with the notion of providing any exemptions. Mortgages, endowments, pension products and shares are by their very nature complex, where the impact of incorrect advice can be catastrophic for the consumer. With over 400 mortgage products in existence alone, every effort should be made to ensure that money advisers do not stray into regulated advice, however well meaning. If any exemption were to be introduced, it would have to have an extremely narrow and well-defined definition.

*Key Points: No money adviser should receive an exemption from financial promotion regulation to ensure that the consumer is protected from incorrect advice, however well meaning. Any confusion within the advice sector at present should be addressed by providing clearer definitions as to the boundaries between regulated and unregulated advice.*

**5.8 Question Eight: Do you think that an exemption limited only to members of certain established networks of advice centres provides a better alternative?**

CPP do not believe that alignment to certain established networks would successfully mitigate the risks of poorly delivered advice. Such an approach would require these advice centres to create a substantial compliance and audit framework to monitor a highly geographically fragmented advice network and, as such, is unlikely to be workable. Failure to adopt a compliance framework would, in our view, create too many risks for the consumer and the industry as a whole.

*Key Points: CPP do not believe that alignment to an established network will mitigate the risks of poorly delivered advice.*

**6.0 Summary of CPP's Position**

6.1 Its imperative that the options presented in this consultation paper are reviewed within the context of the wider money advice community, recognising the role that ethical for-profit organisations have in increasing the supply of these services – complimenting the advice available in the voluntary sector which may be difficult to access by our customers or deemed 'not for them'.

6.2 The primary aim of all organisation operating in this area whether free, charitable, not for profit or for profit should be the ensure consistency, holistic and accurate advice regardless of where that advice is sourced. The provision of thorough advice is paramount to all our activities. It is not possible to provide debt advice without touching on all aspects of a person's financial affairs, in fact, not to do so could be deemed negligent by definition.

6.3 CPP believe that it is possible to provide money advice within the current regulatory environment and do not support the provision of exemption to the advise sector. Any confusion currently felt within the advice sector would be mitigated by the FSA providing a definition of the notion of 'generic financial advice' which, by its very nature is unregulated.

6.4 However, if it is determined to exempt certain bodies from the provision of the

regulation, the exemption should apply by reference to the activity carried on, not the for-profit status of the entity which carries it out. Failure to do so could create a regulatory environment where by organisations look to change commercial structures to take advantage of any loopholes that exist.

CPP would welcome the opportunity to discuss the contents of this letter in more detail, if required.

Yours sincerely

Cathy McCaul  
Group Product & Marketing Director