Consumer Dispute Resolution in the Financial Services Sector

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Introduction

• Context

• Different means of redress

• High number of collective actions claims

• EU Study and data
EU study (2008) Oxford Economics

- Highest numbers of cases per country including financial services
Number of cases by economic sector
Sectors in which it is most difficult to obtain redress (non-business stakeholder opinion) (source Civic Consulting)
International recommendations

• World Bank best practices on financial consumer protection

• UN Guidelines for Consumer Protection

• OECD Recommendation on Consumer Dispute Resolution

• Commission Recommendation on collective redress mechanisms
EU approach (2013): Recommendation on Collective Redress

• Member States should introduce collective redress mechanisms
• Sets out a **number of common European principles** for such mechanisms

- Procedures should be **fair, equitable, timely** and **not prohibitively expensive**
- Collective redress systems should be based on the "**opt-in**" principle
- **Procedural safeguards** to avoid abuse of collective redress systems (e.g. MS should **not permit contingency fees** risks)
- **Alternative Dispute Resolution**
EU Initiative on Consumer ADR (2013)

• EU ADR Directive
  - MS have to make ADR schemes available to consumers (2015)
  - Sets consistent standards for all ADR providers
  - The UK has introduced new legislation, obliging traders to inform consumers whether they are willing to use an ADR scheme and which one they will use

• Regulation on Online Dispute Resolution (ODR)
  - EU-wide online dispute resolution platform for disputes arising from online transactions
  - The platform links national ADR entities, operates in EU languages, is free of charge
  - Consumers are able to submit a complaint through the ODR platform, which notifies the trader
Obstacles to redress in financial services

• **Key obstacles** (Civic Consulting study):
  
  • Cost of litigation
  • Length of judicial proceedings
  • Lack of awareness among consumers and lack of experience by judges
  • Limited resources of consumer organisations to bring claims
  • No collective redress mechanisms
  • No relevant/adequate ADR scheme available for mass issues
Key areas of infringement

• Overcharges collected by banks

• Unfair terms in contracts, imposing extra costs or giving companies strong rights and little liability

• Misleading information and fraud

• Fees for unsolicited financial services
Example of a major mass claim: Payment Protection Insurance (PPI)

• PPI mis-selling in several EU countries, leading to consumer detriment and complaints (e.g. UK, France, Spain, Netherlands, Ireland).

• PPI: insurance products providing coverage to buyers of financial products (loans and mortgages), covering for inability to make payment. The risks covered by the policy usually are accidents, sickness and unemployment.

• Consumers received misleading information (on cover, cost and necessity of the policy) distorting their choice.
The resolution of PPI cases in the UK

- Individual redress and collective redress
- Financial Services Ombudsman (FOS): complaints and mass settlement
- The Financial Services Authority conducted enforcement cases and imposed fines on companies.
- Firms paid out compensation to consumers on miss-sold policies.
Conclusions

• Consumers face barriers to enforce their rights in courts

• Difficulties to enforce small claims and cross-border CR claims

• Efficient and cost-effective collective redress and ADR schemes

• Binding and independent ADR schemes