

The DTC Association

**LegCo Panel on Financial Affairs
Consumer Protection in the Banking Sector**

Introduction

I am pleased to have the opportunity to give our further views on Consumer Protection in the Banking Sector with the benefit of the experience of six months operation of the revised Code of Banking Practice and of the establishment of the Code of Banking Practice Committee.

1. Code of Banking Practice

The Code of Banking Practice Committee ("CBPC") has, I believe get off to a good start. We have met regularly as well as having dealt with many issues by correspondence. We have handled about a dozen questions from members of the two banking associations concerning the scope and interpretation of various provisions in the Code. After proper discussion and deliberation, the CBPC has reached an agreed position on each query and these have been circulated to all member Authorised Institutions ("AIs"). In all cases, transparency and fairness to the customer have been at the forefront of our decisions.

The CBPC Committee has not only been reactive to AI's queries but has also carefully considered some of the views expressed by Honourable Members at the previous Panel session. In particular, I had a great deal of sympathy with the point made by the Hon. Albert Ho concerning unlimited guarantees. I, therefore, proposed to the DTC Association Committee that we should recommend to the CBPC that the Code should be amended to provide more protection to personal guarantors.

The DTC Association Executive Committee's position now is that in principle all guarantees and third party security given by personal customers should either limit the amount secured or should only cover the immediate credit facility unless the customer gives written consent to extending his liability to additional loans. Amendments to the Code are now being considered by the CBPC.

2 Customer Complaints

The number of customer complaints received by the HKMA has increased significantly in percentage terms in the first quarter of 2002 but the absolute number is still relatively small at under 500. It is not surprising that complaints about debt collection tactics have risen. With bankruptcies at record high levels and consumer financing and credit card bad debts rising significantly, the fact is that more debts have to be collected and complaints are also bound to increase. It should also be remembered that a common tactic of defaulting debtors is to make unjustified complaints in order to buy some time or avoid having to make repayment.

One way to reduce complaints is to reduce the number of customers with repayment difficulties. The level of personal bankruptcies has reached frightening proportions and something must be done about it. Bankruptcy is painful for the individual, expensive for creditors and involves significant costs by government. The sharing of positive credit data will alleviate these problems as well as bringing benefits to borrowers who are good credit risks. We must hope that the current deliberations of the Privacy Commissioner on this subject come to a satisfactory and early conclusion.

Another reason for more complaints is an increase in the awareness of consumers of procedures for making complaints. This is encouraged by AIs.

Nothing that I have said is to suggest that we should be complacent or not take complaints seriously. Complaints do reputational damage to AIs and it is our interests to bring down the number of complaints and when we do receive complaints to deal with them quickly and fairly. In many complaints, it is difficult to know who is right and who is wrong but I know that the policy of some AIs is to err on the side of the customer.

The importance that the industry places on customer complaints has been reflected by recent actions taken by the HKMA, the HKAB and the DTC Association. The HKMA has required all AIs to ensure that proper resources, particularly at the management level are devoted to dealing with complaints and that the Guideline on Complaint Handling Procedures is strictly adhered to. The two industry associations have written to their members to remind them in particular of the requirement to

comply fully with the Code in respect of debt collection agents. As a further protection for consumers, I would also advocate the implementation of the Law Reform Commission's recommendation that Debt Collection Agencies be licensed.

3. Complaints Resolution

There has been discussion on whether a Banking Ombudsman Scheme should be established to arbitrate on unresolved complaints. My views on this have not changed from those expressed to the Panel in February. Based on costs / benefits considerations, I do not think that this would be a sensible move.

There has also been some consideration of the industry associations taking on the roles of arbiters. This would be technically difficult given the constitutional arrangements of the two bodies but in any event it would, in my view, be wholly inappropriate as conflicts of interest would be bound to arise.

Another option is to give the HKMA greater formal powers to deal with complaints. The DTC Association would have no objection to this but the question is, is it necessary? It would certainly lead to an increase in costs and these ultimately would be paid by the consumer. It would not necessarily lead to an improvement over the existing procedures which, I submit, work pretty well.

4. Summary

To summarise, the revised Code of Banking Practice and the CBPC are operating effectively and there is nothing alarming about complaints levels although there are some areas of concern. These are being dealt with by the HKMA and the industry and the existing complaints handling procedures are generally robust. Finally I would like to reiterate that the interests of consumers in Hong Kong generally would be well served by permitting the controlled sharing of positive credit data: something must be done urgently to stem the alarming increases in bankruptcies. That really would be positive consumer protection.

CLIFF FORSTER

Chairman, The DTC Association

13 June, 2002