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## **NFU Response to the Consultation on the Study on tying and other potentially unfair commercial practices in the retail financial service sector**

### **About NFU**

The Confederation of the Nordic Bank, Finance and Insurance Unions (NFU) is an organisation for co-operation between trade unions that organise employees in the banking, finance and insurance sectors in the five Nordic countries. At present, eight trade unions are affiliated to the NFU; two in Denmark, two in Finland, two in Sweden, and one in each Iceland and Norway. Through these trade unions, NFU represents 160 000 employees in the Nordic financial market.

### **General remarks**

Some of the questions asked by the Commission in the consultation paper are dealing with matters that are largely oriented towards the securities issuers and investors on the market, and hence not for NFU to comment specifically.

In our reply, we have focused on matters that will, from our perspective, have an impact on employees in the finance sector now and in the future.

### **Question 1: Do you agree with the study's findings and conclusions, in particular regarding the identified potential impact of tying and other identified potentially unfair practices on the different stakeholders groups?**

NFU is, as has been mentioned in several consultation replies previously, surprised that the strong focus on consumers in these matters leads to an approach where the situation of the employees of the financial sector are scarcely mentioned at all. To us the alliance between consumers and finance sector employees is clear. Consumer objectives can only be achieved in

close cooperation with and when employees and their organizations are on board. Empowered and well-informed consumers are of great advantage as seen from an employee perspective. What we call for is awareness of how this will affect financial institutions. Enough staff and well-qualified staff are imperative, and training is paramount.

One of the main priorities in the report aims at investigating and remedying national practices that restrict competition and reduce consumer welfare. It must be pointed out, however, that enforcement of competition law cannot be solely based on the economic interests of the customer; the economic interests of employees must also be taken into account. NFU supports the idea of a level playing field in terms of competition, but it cannot lead to a situation where reduced profits for companies are balanced with reduced personnel costs.

NFU strongly agree with the findings in the report that points out that aggressive sales targets and merit rating systems are counterproductive to customer protection and qualified advice. One of the main issues is not whether any advice given should be compulsory or by request, but that any advice given should be objective. There are many examples where the line between (objective) advice and sales has been effectively eradicated, mainly due to an ever-ongoing shift in companies' remuneration/bonus systems. The problem is two-folded; firstly, there are simply not enough time for the employees in the finance industry to explain the meaning of the different products offered by the company, and secondly, since the remuneration of the employees are increasingly linked to their sales targets, the objectivity of the employees in a situation where advice is given stands the risk of being questioned, which will lead to a very unsatisfying work situation.

This leads to another major issue in this context – the quality of the information and advice given, which is closely linked to the issue of training and staffing that was mentioned earlier. This question will continue to be at the core of consumer education, since the complexity of the products on the market in constantly increasing. Given this increasing complexity, it is of the outmost necessity that roles, risks and responsibilities are made crystal clear to all parties involved. It is our opinion that the quality of services to the consumers will depend upon the level and content of training offered to employees, and that not only competent, but also sufficient personnel will be the key to success. This of course also means that employers in the sector must take responsibility for ensuring that their employees have the competence and the time to provide this information to investors.

The training of employees to better be able to meet the needs of consumers is also something that was highlighted in the Commission Staff Working Document on the Follow Up in Retail Financial Services to the Consumer Markets Scoreboard, where it is acknowledged that "... in-depth training on the advantages and disadvantages of the products on offer should form a key part of their profession."

NFU would also like to question the view that customer mobility should be seen as a goal in itself, as it is to some extent perceived in the report. Our opinion is that a multitude of choices

should be available, but customers should not be pressurized in any way. Good advice of the products as well as the long-term impact of financial decisions should include information on the complexity. Many customers want a long-term relationship based on good advice and confidence. When confidence and trust is in place, mobility will follow.

**Question 3: How could it be ensured that market participants do not suffer from the negative effects of those practices? What could help consumers to avoid being locked in by these practices?**

All structured investment products sold by financial institutions must contain a declaration. The declaration should be worked out by an authority consisting, for example, of representatives from the National Financial Services Authority, a National Consumer Council, a National Bankers Association and the National Financial Services Unions. The declaration must stipulate a rating of the product's complexity and risk, as well as a description of the type of customer at which the product primarily is aimed. It is important that such a declaration is objective and unquestionable and do not have a marketing purpose. Given the increasing interlinkage between the players on the financial markets it is of course vital that investors on all levels receive and understand the information given from product issuers as well as intermediaries.

Generally speaking, especially in hindsight of the financial crisis, NFU would also like to point out that clarity and transparency is vital when it comes to bonus systems and incentive plans. This of course goes for all schemes on all levels. When it comes to creating systems for bonuses and remuneration, such as employee share schemes, the involvement of trade unions, workers organisations and employees is important. Employee share schemes might be an instrument to motivate the employees to do a better job that will result in a better quality of service and advice to the customers, but it must be duly investigated what these schemes entail for the employees in terms of rights and obligations. In this respect, transparent product prices must also be introduced in the financial sector. It must be apparent to customers which agreements the financial institution has reached regarding product sales – including, for example, commission and other types of sales-related remuneration.

**Question 5 & 6: Do you believe that, based on the findings of the study, the Commission needs to address the issue of tying and other identified potentially unfair practices? If yes, what are your views on the form that such a policy response should take?**

**If you consider that a legislative solution on the EU level is necessary, do you believe that the issues should be dealt with by sector specific legislation or by horizontal legislation (e.g. in the context of the review of the Unfair Commercial Practices Directive)?**

Yes, NFU agrees that this matter should be addressed by the Commission. It must be pointed out once again, however, that the too limited focus on consumers must not prevail, since this question is of highest importance to employees in the finance sector.

NFU is of the opinion that regardless of whether a legislative solution is horizontal or sector specific, the picture of the employees in the finance sector needs to be nuanced. The focus should be on the design of the financial products rather than the employees who are selling them. As previously stated, NFU agrees that aggressive sales targets and merit rating systems are counterproductive to customer protection and qualified advice, but it must be pointed out that it is not for the employee to question the products he/she is selling. The industry is moving towards a system where the remuneration of employees is increasingly linked to their sales targets, and the question of selling is therefore also directly affecting the livelihood of said employees.

The crisis has hit the employees as hard as any other stakeholder group, to some extent even worse since employees are not only employees in the finance sector; they are, of course, also finance sector customers. Any new tools must be designed to also ensure that employees' interests are being looked after. NFU therefore urges the Commission to take note of the fact that any change in requirements for finance institutions also means changes in requirements for finance sector employees.

As previously stated, it is necessary to see the interests of employees, consumers and the industry as integrated, not separated. Cooperation between the Commission and relevant stakeholders should include sector employees as well as consumers and representatives from the industry, since all parties involved has input and insights that would be fruitful in conjunction with each other.

The bottom line is that it must be made absolutely clear what a legislative solution will entail for the employees in the finance sector, and that the framework must provide for a continuously sound and sustainable employment situation in the bank. This means that, regardless of the design of the legislation and any powers invested in national supervisory authorities or similar, there must be no worsening of employee's rights in any aspect.



Yours faithfully,

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