



NEW ZEALAND FEDERATION OF
FAMILY BUDGETING SERVICES (INC.)
TE RŌPŪ PENAPENA PŪTEA
WHĀNAU O AOTEAROA

P O Box 24382
Wellington
Ph:(04) 471-1420
Fax:(04) 471-1490
reception@familybudgeting.org.nz
www.familybudgeting.org.nz

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Finance and Expenditure Committee
Parliament House
Wellington

SUBMISSION: Financial Advisers Bill – Minister of Commerce Policy Proposals

Introduction

Thank you for providing the opportunity of providing feedback on the Financial Advisers Bill. The Federation, on the whole, endorses the proposed approach in the Code and would like to offer the following amendments for consideration:

Submission

1. Question 13 – Budget Advisers

The Federation is deeply concerned by the Minister of Commerce's proposal to exclude Pro Bono budget advice from the Financial Advisers Bill. This is in direct contrast to the recommendations made by the Financial Intermediaries task force and the initial paper from the Ministry of Economic Development.

1a. Policy Confusion

The Minister of Commerce's suggestion that other 'options' are considered to ensure that financial planners do not pass themselves off as budget advisers is a contradiction. Budget advisers *are* financial planners. They provide advice on financial planning, savings, KiwiSaver and retirement goal planning, debt consolidation and a number of other tools that financial planners use. The main difference is that budget advisers do not offer advice on investment planning.

To create a whole new set of policies to govern financial advice given Pro Bono when the Financial Advisers Bill already achieves this will only create policy duplication and confusion for consumers. The purposes of the Bill are to require disclosure, ensure competency and ensure accountability. Each of these purposes relates to Pro Bono financial advice and there appears to be no justification at all as to why this form of advice would be excluded from the Bill.

1b. Vulnerability

Clients accessing not-for-profit budget services often present in quite vulnerable situations. These consumers require more protection from the Government not less. There is an extremely high danger of financial advisers working on the fringes in New Zealand and a number of examples of the disastrous outcomes of this are provided in the Case Studies section below.

Specifically, financial advisers connected to finance companies, fringe lenders, second-hand car companies, etc. will be able to brand themselves as not-for-profit budget services to circumvent the legislation. This simply *increases* the risk for consumers and defeats the purposes of the Bill.

1c. Budget Advice

The Federation is deeply concerned that the Minister of Commerce appears not to have considered the complexity of Pro Bono budget advice in today's environment. Certainly budget worksheets and benefit advice is still the basis of our work but the level of expert advice being delivered in the community now makes up a large proportion of the advice offered.

Specifically, Federation budget advisers now provide advice on insolvency, No Asset Procedures, multiple creditor negotiations, Summary Instalment Orders, mortgage and housing issues, credit contract analysis and savings planning.

Inexperienced advisers pose a *considerable risk* to consumers. For instance, an incompetent and unaccountable budget adviser offering advice on insolvency to consumers is a frightening scenario. This is a risk that is broadly mitigated by the Bill.

1d. Training and Standards

The level of training and standard assessing now required to provide the above types of advice in a safe and accountable way are very high. The Federation sets a number of rigorous training standards that are quality assessed over a number of levels to ensure that the basic training levels of its advisers are high enough to cope with offering advice in such a demanding environment.

Further, the Federation has set, and regularly reviews, a set of affiliation criteria that services must meet before membership is granted. These criteria and the overall service delivery including governance and management systems, ongoing training requirements, information provision and service procedures are then annually assessed. Meeting the standards of this service audit is a requirement for ongoing membership with the organisation.

Anything less than the above standards being met by *all* budget services is unacceptable for New Zealand consumers.

2. Question 14 – Securities Commission

The Federation considers establishing a Securities Commission function to oversee the new regime an appropriate decision. It is only appropriate, however, if the following points are met:

2a. Earlier Implementation

If the Securities Commission structure allows this Bill to be implemented earlier than the timeline provided in the Bill then the Federation would support this option. In fact, in its original submission the Federation suggested that a timeline with a cut-off at the end of 2010 would be entirely possible. If the Securities Commission was to take up the role of APBs then an earlier date should be easily achievable.

2b. Cost

An industry-led regulator environment would ensure that market-based costs would be set. Specifically, this would allow Pro Bono services to offer a zero-cost model for consumers. The Federation can only support the above option if the cost for consumers will be set at zero and that options are provided for approved community organisations to access the Securities Commission functions for free.

3b. APBs

If the Securities Commission is to take oversight of the environment it would only be appropriate if it was to recognise APBs as another level of protection for consumers. There are a number of APBs type entities in existence already and these organisations should be supported and, indeed, consulted with and worked with to develop a robust and acceptable system for consumer protection

Conclusion

The Federation reiterates its belief that there is a *very serious* risk that some community organisations will be able to continue to provide financial advice under the auspices of 'budget advice services' without having to come up to the level of service delivery expected by consumers in New Zealand.

This Bill has the opportunity to ensure that these Pro Bono organisations and their financial advisers either come up to the level of service delivery expected by New

Zealand consumers or stop delivering financial advice; either of which is a positive outcome for the consumer and in keeping with the intentions of the Bill.

Case Studies

In consideration of the points outlined in the above clauses the Federation urges the Committee to consider the following examples in its decision making:

Debt Relief

Debt Relief was an organisation set up to manage people's finances for a fee and to offer them budget advice. At one point the local Work and Income office was actively sending their clients to the service. These clients were vulnerable and had very low levels of financial literacy.

The Federation was notified on a number of occasions of clients that were very concerned with the service delivery of this organisation but had no power to intervene. In 2006 this company went bankrupt and many low-income families discovered that their bills had not been paid for some time and that they were left further in debt than ever. This happened just prior to Christmas.

Flaxmere 'Budget Adviser'

In 2007 a 45 year old Flaxmere woman was sentenced to 11 months prison in what Crown prosecutor Paul Frost said was the most serious case of benefit fraud in the East Coast in almost three years. This woman, in her defence, claimed the service provided by her budget adviser was to blame for her financial crisis.

This 'budget adviser' was not a Federation adviser, although she was known to the local community. Again, there was no consumer legislation allowing this lady, the community, or the Federation to act on when it was known that extremely poor service delivery and financial advice was being offered.

Federation Disaffiliation

A number of budget services have been disaffiliated from the Federation due to their inability to improve the quality of their service delivery. The Federation expends significant energy and resources on these services to try to bring them up to an acceptable level of service delivery. Unfortunately, if they are unable, or unwilling, to meet this standard they resign membership from the Federation thus preventing any further protection for clients.

Some of these services continue to provide a poor and sometimes dangerous level of service and advice to the community today. In the current environment there is simply no structure or process to prevent this from happening.

Call to Action

The Federation would like to make an oral submission to the Committee to provide some further and more specific comments on the above. The Committee can contact the Federation on 04 471 1420.

Yours sincerely

Raewyn Fox
Chief Executive Officer
NZFFBS Inc.