

**Seminar 4 : Over-indebtedness – The role of *amicable* debt advice**

**Systemic approach to debt advice  
&  
Lessons from the field**

Olivier Jérusalmy – EFIN chairman

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## Content

Objective : achieve effective results through a systemic approach to amicable debt advice by identifying and promoting practices that increase cooperation between stakeholders.

- 1) An alternative definition of amicable debt advice
- 2) identify the stakeholders
- 3) identify their objectives
- 4) identify their incentives
- 5) identify practices that respect those objectives
- 6) contextual requirements to facilitate stakeholders cooperation
- 7) last remarks on public authorities and private debt collection companies



## What is amicable debt advice ?

« Debt advice (also called money advice, debt counselling or credit counselling) generally refers to information and help for people who are unable to meet the contractual payments on their household bills, consumer credit or other financial agreements, or who are at risk of not being able to meet these payments. »

*Civic Consulting study / DG SANCO*

### *A potentially controversial definition to open up the discussion ?*

*Amicable debt advice : a procedure to facilitate payments (bill, arrear, credit,...) management so as to protect each creditors' interest ... WITHIN... the limit of the respect of human dignity and privacy for each debtor*

Two key notions :

- Amicable debt advice is exclusively dedicated to situations where debtors are solvent (resources available to repay all the requested payments within a reasonable time limit to debt settlement) --> otherwise... personal bankruptcy is recommended (which allows debt cuts and shorter plans, and appropriate protection for completely insolvent persons)
- Protecting human dignity : is the necessary foundation upon which a balanced treatment of debtors and creditors can be ensured. Debt advice professionals should be mandated to fairly assess (in this perspective) the financial capacity of each household.



## Identifying the stakeholders today...

### **The debtors: those who act first**

- pushing the door open for debt advice, often because of a specific event : foreclosure, bailiffs,...

### **The creditors: those contacted by the adviser...**

- dealing with arrears, default credit, and implementing administrative follow-up, internally and or via collection agencies

### **The debt adviser**

Various existing approaches (profit/non-profit), each with a specific impact on the « costs » (high / low / for free) and, consequently, on who has to face these costs (the debtors, the creditors, a public authority, or a mix)

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### **Professional debt collectors ...**

Are there legitimate stakeholders, considering the fact that their actions increased significantly the existing financial difficulties?

- some might have a specific « public authority » proxy and ... subsequently a coercive power
- specialised private collection companies,... others

The most relevant issue is how to regulate practices in order to protect of human dignity and privacy (Belgium can be seen as a good practice)

### **Public authorities**

Over-Indebtedness is no longer a private issue, but has become a social one over the past years. O-I generates an important cost for the whole of society (social & economic)



# Stakeholders' objectives

## *Debtors*

Face and deal with emergencies related to debt collection procedures ?  
Negotiate with creditors ?  
Reach an improved budget balanced, when it is possible (non real poverty) ?  
Contest illegal amounts requested ?  
Improve day-to-day life when many debts has to be managed ?

## *Creditors*

Differences between:  
- those with or without « secured debt » : Recover higher amounts thanks to a debt adviser in an amicable procedure  
- those with their own debt collection service / those using collection company : Reduce costs with the action of a debt adviser  
**And also...**  
**Avoid the risk of a non-amicable debt settlement procedure with a real risk of significant debt cuts, if I do not accept amicable procedure ?**

## *Debt adviser*

Pacify the dialogue between the debtor and its creditors...  
Reduce potential competition between creditors  
Achieve effective and positive impact for creditors and debtor.  
Cover the cost of the mission (non-profit / public) / Maximise the profit (private for profit adviser)  
Access to a real « status/responsibility » for amicable debt adviser to increase the chance of successful amicable procedure

## *Professional debt collectors*

Maximise their profit

## *Public authority*

Limit negative social impact of over-indebtedness (subsequent poverty, increased social support and expenditures, increase health expenditures, social and economical exclusion,...)  
Guarantee an efficient treatment with low impact on public expenditures



# Stakeholders' incentives

## *Debtors*

### **Financial incentives :**

- Reduced penalties and/or extra-costs...
- Better/ more balanced protection of their assets...

### **Moral incentive:**

- Less or reduced number of debt collection acts (letters, phone call, forecloser, handover,...)

## *Creditors*

### **Financial incentives :**

- Reduced costs for debt/arrears collection than home made/other sub-contracted actions
- Improved performances (higher recovered amounts)

### **Economic incentives :**

- Increase financial recovery of customers via short procedure to boost purchasing power

### **Moral incentive:**

- Balanced and fair treatment of creditors

## *Debt adviser*

### **Financial incentives :**

- Sustainability (non-profit/ public) / OR see private debt collectors section

### **Moral incentive:**

- Recognition by debtors and creditors for the important role of debt adviser
- Appropriate responsibilities to allow effective mediation

## *Professional debt collectors*

### **Financial incentives :**

- Increase benefit via higher margins/ increased prices for their activities
- Increased benefit with never ending arrears and debts

## *Public authority*

### **Financial incentives :**

Reduce justice and other public costs related to non amicable procedures

### **Economic incentives :**

- Increase financial recovery of customers via short procedure to boost economic activities/consumption



## *Practices respecting stakeholders' objectives*

- **Trustworthy and responsible...**
  - Amicable debt advisers investigate the debtors' situation (budget : incomes & expenditures) and map all the « debts »
  - Amicable debt advisers, based on the situation analysed, fix the amount for the repayment of creditors while maintaining the means necessary for the debtor to live in dignity
  - If no debt cuts are necessary / if the duration is reasonable (a common EU standard?), personal bankruptcy procedure is not requested
- **Less costly for debtors and creditors...**
  - Amicable debt advisers are **non-profit** / **public** (FR, BE, some UK, AT, DE,...) limit « profit maximisation strategy with negative impact on prices and debts » and hence exploitation of vulnerable people
    - Lower costs than private approach (internal or sub-contracted)
- **More efficient for debtors and creditors...**
  - Amicable debt advice facilitates the financial recovery of debtors and increases the potential amounts collected (UK). A constructive, solution oriented approach, to debt encourages a more balanced budget (increasing income / reduce ineffective expenditures,...)
    - Professionals of budget management with holistic approach (UK: MABS, FR: Point Conseil budget – Crésus, BE: médiateur de dettes - ...)



## *Contextual requirements (1)*

**Amicable debt advice (Ada) is efficient when:**

- **debtors can repay all their debts**
  - Amicable procedures that include debt cuts are very rare and not easily acceptable for creditors
- **an effective personal bankruptcy procedure exists for unmanageable debts (that includes possible debt cuts)**

Consequently

- Ada is efficient when the total amount and the importance of the debts are low

Hence

- Early detection leading to constructive debtors' budget redress is key to successful debt alleviation ... Innovation in a fair detection and follow-up from the companies side should be tested (FR: Crésus + Cételem + Banque Postale)





## ***Contextual requirements (2)***

- **Ada allows longer debt settlement plan than judicial**
  - Necessary incentive to promote effective amicable approaches (FR, BE, NL,...), otherwise creditors might not play the game
- **Ada guarantees fair treatment of all debtors**
  - Limit of potential unfair competition between debtors (principle of proportionality)
- **Ada has a positive impact on the mental health of the debtors**
  - Should lead to a “pause” in the debt collection acts (foreclosure, letter,...)
- **Ada guarantees fair & efficient assessment of debtors financial capacity to repay debt**
  - Stop never ending negotiations... unnecessary when a common approach to assess debtors' financial capacity is accepted by all stakeholders (Budget reference : NL / UK)



## *Public authorities*

- **When debtors are solvent** : not a real issue as long as debt collection practices do not generate violence and indignity/exploitation
- **When debtors are insolvent** : social issue when never ending process... - when debts generate and maintain long term poverty and hence require an increase of public support
- **Should regulate business model** to restrict opportunity for companies to make more profit when their clients meet financial difficulties

## *& Professional debt collectors*

- **Potential risk of barriers and lobby**: because of a business based on debtors difficulties, might generate resistances against « solution oriented» approaches
  - Consequently :
    - Regulation should limit this risk, and hence limit the possibilities for this industry to earn more money when the problem is maintained (prices based on real costs – which remains an issue because of tricky control)
    - Regulation should limit the benefit for the creditors to use their services... via the positive effect on their balance sheet (RO – mortgage credit)... via the competition of a more efficient non-profit approach available on the market



# *Thank you for your attention*

## *Q & A..*

Contact

[Olivier.jerusalmy@financite.be](mailto:Olivier.jerusalmy@financite.be)

Website

[www.fininc.eu](http://www.fininc.eu)

