

Article 16(4) & (6)

4. Member States may prohibit the use of the terms ‘advice’ and ‘advisor’ or similar terms when the advisory services are being marketed and provided to consumers by creditors or, where applicable, credit intermediaries.

Where Member States do not prohibit the use of the terms ‘advice’ and ‘advisor’ or similar terms, they shall impose the following conditions on the use of the term ‘independent advice’ or ‘independent advisor’ by creditors and credit intermediaries providing advisory services:

- (a) creditors and, where applicable, credit intermediaries shall consider a sufficiently large number of credit agreements available on the market; and
- (b) credit intermediaries shall not be remunerated for the advisory services by one or more creditors.

Point (b) of the second subparagraph shall apply only where the number of creditors considered is less than a majority of the market.

Member States may impose more stringent requirements for the use of the terms ‘independent advice’ or ‘independent advisor’ by creditors and, where applicable, credit intermediaries.

...

6. Member States shall ensure that advisory services may only be provided by creditors and, where applicable, credit intermediaries. Member States may, by way of derogation from the first subparagraph, allow other persons than those referred to in the first subparagraph to provide advisory services where one of the following conditions is fulfilled:

- (a) the advisory services are provided in an incidental manner in the course of a professional activity that is regulated by legal or regulatory provisions or a code of ethics which do not exclude the provision of those services;
- (b) the advisory services are provided in the context of management of existing debt by insolvency practitioners and where that management activity is regulated by legal or regulatory provisions;
- (c) the advisory services are provided in the context of management of existing debt by public or voluntary providers of debt advisory services as referred to in Article 36 which do not operate on a commercial basis;
- (d) the advisory services are provided by persons that are authorised and supervised by competent authorities.