



***FCA Confirmed Industry Guidance***

***Ensuring financial promotions for motors brands on radio  
are clear fair and not misleading***



## Who is this guidance for?

This guidance is for authorised persons responsible for ensuring financial promotions on radio, involving consumer credit or consumer hire offers for motors brands, comply with the Financial Conduct Authority's (FCA) rules and guidance. It may also be of interest to advertising and marketing teams from the motors industry.

## The role of FCA Confirmed Industry Guidance

Industry guidance that has been confirmed by the FCA illustrates ways that firms can achieve compliance with the relevant rules in the FCA's Handbook and Principles for Businesses. The FCA will not take action against a person for behaviour that it considers to be in line with guidance, other materials published by the FCA in support of the Handbook or FCA confirmed Industry Guidance which were current at the time of the behaviour in question.

The FCA has reviewed this industry guidance and has confirmed that it will take it into account when exercising its regulatory functions. This guidance is not mandatory and is not FCA guidance. This FCA view cannot affect the rights of third parties.

The relevant rules in respect of this industry guidance relates to those contained in Chapter 3 of the FCA's Consumer Credit Sourcebook (CONC 3). There are other provisions of the FCA's Handbook which also apply to firms. The contents of this guidance are not intended to be exhaustive.

This confirmed guidance has been added to the list of industry guidance that has received FCA confirmation at <https://www.fca.org.uk/about/rules-and-guidance/confirmed-industry-guidance>

## Our aim

The complex nature of many financial products means that it is important for consumers to be aware of both the benefits and risks of products prior to purchase so that they can make an informed decision.

Financial promotions influence consumers at the start of this decision-making journey. They play an important role in making consumers aware of financial products which might be of interest to them and encouraging them to investigate further. It is therefore important for firms to provide accurate and balanced information in financial promotions to ensure that any product benefits are not misrepresented. It is also important that the information is provided in a manner in which it can easily be understood and recalled by the consumer.

In the case of radio promotions, additional information needed under FCA rules and other legislation in order to ensure a financial product is fairly represented, is read aloud, usually at the end of the radio promotion. Often referred to by consumers (and many advertisers) as terms and conditions (Ts&Cs)<sup>1</sup>, this information has to be read in a manner that is clearly audible so that consumers can process and recall the information. However, research demonstrates that when the information becomes too complex, listeners fail to absorb or recall important features and therefore could result in a reduction of trust<sup>2</sup>.

Clarity and simplicity of content of Ts&Cs on radio are therefore vital, in addition to ensuring they are read at an audible pace. This guidance aims to help compliance and marketing teams achieve clarity of content in accordance with FCA rules.

## Background

Principle 6 of the FCA's Principles for Businesses states that a firm "must pay due regard to the interests of its customers and treat them fairly" and Principle 7 states that a firm "must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading."

CONC 3 sets out rules and guidance on financial promotions and communications with customers for credit and hire/lease agreements, including the overarching rule in CONC [3.3.1R \(1\)](#) that "a firm must ensure a communication or a financial promotion is clear, fair and not misleading<sup>3</sup>".

The radio industry fully supports this requirement and recognises the importance of ensuring that financial promotions on radio comply with FCA rules as well as the ASA CAP/BCAP rules.

CONC 3.3.1R(1A) expands on the clear, fair and not misleading rule. In particular, a financial promotion must be balanced and must not emphasise any potential benefits of a product or service without also giving a fair and prominent indication of any relevant risks. It must not disguise, omit, diminish or obscure important information, statements or warnings. To comply with clear, fair and not misleading it is also important that the information in the ad is not rushed and is coherent.

However, some firms and advertisers have interpreted this as meaning that a promotion must always contain large amounts of information even where this may not necessarily be required. This can result in 'information overload' and over-long advertisements. It can also dilute the impact of key messages or more important information. This may not be in the interests of consumers.

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<sup>1</sup> The information requirements are also sometimes referred to as "caveats", "legals", "risk warnings", "wealth warnings" or "qualifying information"

<sup>2</sup> [Protecting Consumers, Why long and complex terms and conditions on radio don't work](#)

<sup>3</sup> The financial promotion of hire is excluded from most of the rules and guidance in CONC 3 although the clear, fair and not misleading requirement in CONC 3.3.1R(1) also extends to consumer hire

We recognise that getting the balance right can sometimes be challenging. But advertisers shouldn't necessarily assume that it is better to play safe and include more information than is required because the result can be counterproductive to consumer recall and understanding.

The content of each individual ad will determine the disclosure requirements and should therefore be assessed on a case by case basis. However, our analysis of over 1,000 radio scripts for motors ads revealed a number of items of information that frequently occurred and which might not always have been required. We have listed these below as FAQs, together with an explanation of why these items of information might not always be required.

## Frequently asked questions

### 1. Do I have to include “subject to status” in my credit ad?

In most cases, it is unlikely to be necessary to include wording such as “subject to status” in order to comply with CONC 3.3.3R which makes it clear that a financial promotion or communication must not state or imply that credit is available regardless of the customer’s financial circumstances or status. This is because it should be generally understood that acceptance for credit is not guaranteed and will depend on an individual assessment, which is likely to include the customer’s credit history and creditworthiness.<sup>4</sup>

### 2. Do I have to state “over 18s” in my credit ad?

There is no specific CONC 3 rule that requires the inclusion of such a qualification. The majority of loans or credit facilities are only available from the age of 18 so, to comply with the clear, fair and not misleading rule in CONC 3.3.1R, such qualification would only be needed if the offer was perceived as particularly relevant to under 18s<sup>5</sup>; for example, if it was addressing new drivers.

### 3. For a hire or lease ad do I need to spell out “you will not own the car”?

This depends on whether the promotion makes clear that it is about hire or leasing, rather than credit or hire purchase. If so, such a statement is unlikely to be necessary. However, if, because of the terminology used, there is scope for consumers to be misled or confused about the type of arrangement then, to comply with CONC 3.3.1R, we would expect some kind of clarification. For example, if the language used might confuse consumers as to ownership, such as the difference between “personal contract plan” or “PCP” and “personal contract hire” or “PCH”, then we would expect firms to spell out that the customer will not own the car.

### 4. Do I have to re-state in the Ts&Cs at the end of my ad the nature of the offer i.e. whether this a contract hire/lease, personal contract purchase, or hire purchase?

It depends on the wording of the promotion itself. Under [CONC 3.3.1R \(1A\)\(d\)](#) it is vital that any financial promotion is “presented in a way that is likely to be understood by the average member of the group to which it is directed or by which it is likely to be received”. As per FAQ 3 above, if the wording in the body of the ad makes the nature of the agreement clear, for example whether it is a hire or purchase agreement, then further clarification wouldn’t be needed in the Ts&Cs at the end.

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<sup>4</sup> Note however that if an ad specifies that credit is available to applicants who might be considered or consider themselves to be unlikely to be approved for credit (for example if the ad states that a loan is available to applicants with CCJs or with a poor credit score) then in the interests of balance a more explicit qualification would be needed to make the terms on which credit could be offered clear.

<sup>5</sup> We would also remind firms that the Consumer Credit Act 1974 (Section 50) makes it an offence to send a document to a minor inviting him to borrow money or obtain goods or services on credit (or hire)

5. *I always include the mileage restrictions in the Ts&Cs at the end of my lease or contract hire ad*

Since it is a common feature of a contract hire agreement (and also for hire purchase agreements) for mileage restrictions to be included and for additional charges to be incurred if those mileage restrictions are exceeded, information about this may not always have to be included.<sup>6</sup>

However, firms need to be mindful of the clear, fair and not misleading rule in CONC 3.3.1R and in particular CONC 3.3.1R (1A)(c) that requires that information must be balanced and not emphasise any potential benefits without also giving a fair and prominent indication of relevant risks. If price information is quoted in the ad but that price is likely to increase because the related mileage restrictions are below typical mileage for the car being advertised<sup>7</sup> then you will need to specify in the ad that mileage conditions apply. This is to ensure that consumers are not misled by the omission of information that they may have to pay more than the price advertised.

6. *I have to re-state the representative APR at the end of my ad, even if it has been mentioned in the main body of the ad itself.*

Under CONC 3.5.7R (2) the representative APR must be given no less prominence to the information which has triggered its requirement. Provided that the representative APR is clearly mentioned in the ad you would not need to repeat this at the end of the ad.<sup>8</sup>

7. *I assume I have to state 0% APR representative in a promotion for interest free credit*

No, under CONC 3.5.7R(3)(b) a representative APR is not triggered if the APR is 0%.<sup>9</sup>

8. *I should automatically include “subject to availability” or “while stocks last” in order to avoid misleading customers*

We assume that for any promotion there is sufficient stock to meet expected demand. If this isn't the case or if there is limited availability then this should be stated in the ad to comply with CONC 3.3.1R and Principle 7. For radio, however, it is possible to withdraw the ad ahead of stock running out, in which case care must be taken to withdraw the ad

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<sup>6</sup> Where the excess mileage charges form part of the total charge for credit then if a representative example is triggered by the radio ad, this will need to include the excess mileage charge

<sup>7</sup> Mileage may vary by car - the DFT National Travel Survey published July 2019 reports average annual car mileage to be 7,600 (6,600 miles for petrol cars and 9,400 miles for diesel cars)

<sup>8</sup> Advertisers are however reminded that where a representative example is triggered, this must include the representative APR which must be given equal prominence to each item of information in the representative example as required by CONC 3.5.5R(5)(c)

<sup>9</sup> Advertisers should be reminded that the expression “interest free” can only be used in a credit advertisement if the total amount payable does not exceed the cash price

sufficiently in advance to ensure consumers are not misled. We would also remind advertisers of the need to comply with [CAP/BCAP](#) rules on availability<sup>10</sup> as well as ASA/CAP online guidance (<https://www.asa.org.uk/advice-online/availability.html>).

Firms should avoid promoting products where availability is extremely limited as this may be misleading, even where qualifications are included in the ad.

9. *I have to put “regulated by the Financial Conduct Authority” in my financial promotion*

This is not a requirement. However, if you choose to include this and if the promotion also refers to matters not regulated by the FCA, then under [CONC 3.3.6G](#) you must make this clear.

10. *I have to state “retail only” to differentiate from business offers*

Most radio ads for motors are aimed at retail customers and they would expect an ad to be aimed at them unless otherwise stated, so “retail only” isn’t needed.

By contrast, if an ad is aimed at business users only this needs to be made clear. [CONC 3.1.6R](#) excludes from the financial promotion rules a promotion or communication which, either expressly or by implication, indicates clearly that it is solely promoting credit or hire for the purposes of a customer’s business.

## Final Thoughts

To illustrate the difference removing information which isn’t needed can make, below are two examples of sample scripts for radio advertisements – one for a personal contract hire offer for a car dealership; the other a credit offer.

For the PCH offer, Figure 1 shows terms which will often be included whilst Figure 2 demonstrates how by removing the items of information which aren’t automatically required, the clarity and simplicity of the information is significantly improved. Note that we have changed the body copy to include “*yours to lease for just £199 a month*”. Making it clear in this way that this is a lease arrangement removes the need to state “*you will not own the vehicle*”. This amended example is on the assumption that there are no unusual or onerous terms which we haven’t been made aware of and which may require additional information to be added.

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<sup>10</sup> CAP 3.27 and 3.28 and BCAP 3.28 and 3.29

### **Example – PCH offer**

**VO : A brand new [make and model] is yours for just £199 a month with a £1,000 initial rental payment at [dealership]**

**Ts and Cs : 4-year personal contract hire agreement. Offer ends 31<sup>st</sup> March. Subject to status. Over 18s only. You will not own the vehicle. Mileage and return conditions apply.**

Figure 1

### **Example – PCH offer with amended ts and cs**

**VO : A brand new [make and model] is yours to *lease* for just £199 a month with a £1,000 initial rental payment at [dealership]**

**Ts and Cs : 4-year lease. Offer ends 31<sup>st</sup> March. Conditions apply.**

Figure 2



For the credit offer below, Figure 3 is typical of a credit ad where terms get included which aren't always required, whilst Figure 4 illustrates how removing those terms improves the simplicity and clarity of the message. In this case the ad is for a direct lender rather than a credit broker. Again Figure 4 assumes there are no unusual or onerous terms which we haven't been made aware of. Also note the ad is for 0% and therefore the requirements of CONC 3.5.3R and CONC 3.5.5R are not applicable in this instance.

**Example – Credit offer**

**VO : Thinking about a new car? Until the end of February the [make and model] is available with 0% finance for £149 a month. Visit [manufacturer's website] for details.**

**Ts and Cs : Personal contract purchase with [company name] financial services, deposit £149, 36 months at £149, optional final payment £5136, 0% APR representative, finance subject to status, over 18s only, at participating dealers.**

Figure 3

**Example – Credit offer with amended ts and cs**

**VO : Thinking about a new car? Until the end of February the [make and model] is available with 0% finance for £149 a month. Visit [manufacturer's website] for details.**

**Ts and Cs : [company name] financial services, deposit £149, 36 months at £149, optional final payment £5136, at participating dealers.**

Figure 4

[Useful links](#)

[FCA CONC 3](#)

[BCAP FINANCIAL RULES](#)

[RADIOCENTRE CLEARANCE SERVICES](#)

[PROTECTING CONSUMERS: Why long and complex terms and conditions on radio don't work](#)