RadioCentre response to Financial Conduct Authority (FCA) Consultation paper CP13/10 – Detailed proposals for the FCA regime for consumer credit

Introduction

1. RadioCentre is delighted to have an opportunity to respond to the FCA's consultation paper CP13/10. RadioCentre is the industry body for commercial radio in the UK. Our role is to help support a strong and successful commercial radio industry, so that the sector grows revenues and audiences year on year. Within this, we help promote the public value and diversity of commercial radio. Commercial radio is a relatively small sector in terms of revenue, generating a gross turnover of £553million p.a., but provides significant public value for audiences and communities.

2. Our member companies range from the largest commercial radio broadcasters in the UK, to smaller regional groups and numerous independent operators. RadioCentre works on behalf of these stakeholders for the greater benefit of the industry, to foster relationships with Government and policy makers, to raise the profile of commercial radio with advertisers and their agencies, and of course, helping radio stations maximise the potential of their businesses.

3. The Radio Advertising Clearance Centre (RACC), a subsidiary of RadioCentre, provides a script clearance service for advertisers and agencies to ensure adverts are cleared for broadcast against the BCAP UK Code of Broadcast Advertising and the Ofcom Broadcasting Code, thus ensuring high standards of consumer protection. RadioCentre is keen to support self-regulation as an appropriate and effective mechanism to oversee standards.

Background

4. Advertising is an important driver of the UK economy and has a crucial role to play across a range of different sectors. At its most fundamental it is a vital source of communication for both businesses and consumers – underpinning the success of companies of all size and shape, including those in the finance sector. Revenue from advertising is also vital in enabling many commercial media to operate, including radio, television, magazines, newspapers and online services.

5. The recent Advertising Pays Study, published by the Advertising Association in conjunction with Deloitte, confirms that every £1 invested in advertising generates £6 for the economy. We estimate total adspend for financial services, including credit advertising is in excess of £1.6 billion. Radio accounts for a relatively small portion of this at over £130 million, however based on the RAB's recent study, Radio the ROI Multiplier, we calculate the impact of that advertising on revenue for financial services as being well over £500 million.

6. Collectively RadioCentre has substantial expertise and insight into best practice advertising, and radio advertising in particular. It is in this context therefore that we are responding to two questions from your consultation document:-

   Question 8: Do you have any comments on our proposed approach to financial promotions?

   Question 14: Do you have any comments on our proposed risk warning?

7. The over-arching principle behind our responses to these questions is that clarity and simplicity are vital in ensuring consumers understand the risks associated with financial products. Advertising sits at the first stage of the consumer journey. It plays an important role in making consumers aware of financial products and directing them to other sources for more detail or help.

8. **Our hypothesis is that the clearer and simpler the risk warnings or legal caveats (sometimes also referred to as terms and conditions) at this stage of the consumer journey, the better the level of understanding and hence consumer protection.** For broadcast media, and within this radio, adverts are consumed in real time hence it is even more imperative to take this into consideration.

Our detailed responses to both questions are given below.

Q8: Do you have any comments on our proposed approach to financial promotions?

9. We support the FCA's high level principles that a communication or financial promotion should be clear, fair and not misleading (CONC 3.3 and Paragraph 5.13 of your consultation paper)

10. We also acknowledge that the provisions set out in the Consumer Credit (Advertisements) Regulations 2010 have been carried across to the FCA's equivalent provisions in their current form (CONC 3.5 – Financial promotions about credit agreements not secured on land). We understand that these provisions are largely derived from the 2008 Consumer Credit Directive.

11. However, we remain concerned that these regulations continue to place a substantial burden on credit advertisements to the detriment of consumer understanding (and broader advertising efficiency). In recent analysis carried out by RadioCentre, over 60% of the radio scripts carrying terms and conditions in excess of 25 words were credit-related ads, often adding 12-15 seconds on a 30 second radio ad.

12. There is now a lot of evidence that consumers are better protected when warnings are clear, focused and timely:-

    a. The original 2004 Navigator report[1] on Wealth Warnings highlighted that consumers rarely paid attention to complex warnings in advertisements, viewing them more cynically as being there to protect the advertiser rather than the consumer.

    b. The October 2013 Payday lending advertising research conducted for BIS by Ipsos MORI[2] also reinforces the importance of simplicity. Consumers were unlikely to engage with detailed information about the risk and costs of lending in advertising material (preferring to source this level of detail elsewhere) and viewed simpler, more personalised messaging about the risks much more positively.

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[1] Navigator: Radio Commercials and Wealth Warnings, research report prepared for The Radio Advertising Bureau February 2004

[2] Making Consumer Credit Markets Fairer: Payday lending advertising research conducted for BIS by Ipsos MORI Social Research Institute. October 2013

[Also see Appendix 2 in which we incorporate some of the findings from the IPSOS Mori study into our own quantitative research]

c. The RAB's recent new study "The *effect of lengthy terms and conditions on consumer attention and perceptions" [appendix 1],* demonstrates that listener attention falls by approximately 20% in radio ads with longer terms and conditions whilst there was little change with shorter, simpler alternatives. At best, listeners mentally switch off; at worst they get irritated when terms and conditions are too long.

d. The latest RAB study *"Improving the effectiveness (consumer attention and understanding) of legal caveats and risk warnings in radio advertising"* demonstrated that an edited version of a worked credit example focusing on critical information only increased positive perceptions of the ad as being "clear and easy to follow" by 31%. Perceived value to the consumer of the terms and conditions themselves also increased by 17%.

13. We therefore request the FCA to use their powers of influence over the long term to reduce the excessive burden of legal terms and conditions imposed by the existing Consumer Credit (Advertisements) Regulations 2010, with particular reference to the worked credit example.

    In support of this we refer to our latest study *"Improving the effectiveness (consumer attention and understanding) of risk warnings"* which gives further illustrations of the benefits of a shorter credit example.

14. In the short/medium term we would urge the FCA to consider the best ways of ensuring clarity and simplicity in such advertising messages, with levels of information for consumers that they can reasonably be expected to absorb. Specifically **the FCA should seek to minimise the inclusion of terms and conditions in advertising that go *beyond* those stipulated by the existing Consumer Credit Regulations.**

15. Within this, in our experience, interpretation of the "clear, fair and not misleading" principle can lead authorised persons to include unnecessary terms and conditions to "play safe". Examples in radio ads in the past have included "18s and over", "subject to status", and excessive repetition of the representative APRs.

16. We believe that such irrelevant and unnecessary warnings should not be included since they act against the principles of being "clear fair and not misleading" and confuse consumers – as evidenced in the Navigator Wealth Warnings Report highlighted in 12a. As a minimum step towards rectifying this we would recommend that the FCA include and highlight within their guidelines in CONC section 3 the following statement:

    *"Warnings should be right for the product, the medium, the audience and the content of the promotion. **Irrelevant or inappropriate warnings may only discourage or confuse consumers for no useful reason and will result in the advert being unclear".***

    It should be noted, this is already in the FAQs on the FCA website but we feel it should have much greater prominence and status being featured within the handbook itself.

17. For broadcast media, and radio in particular, which is consumed in real time it is even more important that legal terms and conditions are minimised in order to feature the essential messages in the interests of consumer understanding. With this in mind we acknowledge

and support the efforts already made to recognise the importance of exempting broadcast media from unnecessary information:

a. CONC Rule 3.5.3 (3) (a) – postal address not required where a rate of interest or amount relating to the cost of credit for financial promotions communicated by means of television and radio
b. CONC Rule 3.6.4 (1)(b)(i) – where a financial promotion includes any of the amounts referred to in (5) to (7) of CONC 3.6.9R the promotion must also specify a postal address except in the case of a financial promotion communicated by means of television or radio
c. CONC Rule 3.6.5 (6)(a) – requirements for statements in relation to security including specified risk warnings are not required in the case of a financial promotion which is communicated by means of television or radio broadcast in the course of programming, the primary purpose of which is not financial promotion.

Q14: Do you have any comments on our risk warning?

18. We fully endorse the importance of ensuring consumers are aware of the risks of borrowing unaffordably .

19. To that end we agree that some form of risk warning is appropriate for high cost short-term credit adverts. We also acknowledge that the FCA have made some really positive steps in using consumer research to develop a risk warning which uses clear and intelligible language.

20. However the current risk warning adds a further 12-15 seconds to a radio ad. We would therefore urge the FCA to consider a simpler, slightly shorter version for reasons outlined in point 4 (above) and Appendix 2. In particular:

21. The Ipsos MORI payday lending advertising research[3] on behalf of BIS highlighted that participants were not advocates of including a warning including specific numbers at this stage. Instead they preferred statements which forced them to think about personal circumstances and signposted to other sources of help and advice. For this reason we would take *"Over 2 million short-term loans were not paid off on time in 2011/12"* out of the risk warning.

22. The RAB's study "Improving the effectiveness (consumer attention and understanding) of legal caveats and risk warnings" [Appendix 2] uses a quantitative methodology to compare your current suggested risk warning in full with an edited 6 second version which focuses on critical information (also taking into account the findings of the Ipsos Mori research).

    This demonstrated that:

    a. Listeners were 34% more likely to recall important messages with the shorter version

[3] Making Consumer Credit Markets Fairer: Payday lending advertising research conducted for BIS by Ipsos MORI Social Research Institute. October 2013

b. Only 3% of listeners specifically recalled the 2 million figure (the number of short-term loans not paid off in 2011/12)

23. Based on these findings our recommendation is that consumer protection interests would be better served by reducing the length of the warning to the following:

 "Think! Could you afford to pay back this loan? Go to moneyadviceservice.org.uk for free and impartial help"

 At the very least we would advise that this reduced warning should be applied to broadcast advertising and, within this, radio in particular.

In summary

24. We acknowledge the importance of ensuring that consumers are effectively protected by making them aware of any potential risks linked to financial products and agree with the FCA's guiding principles in applying this to advertising.

25. However, our experience and research emphasises the importance of ensuring that any risk warnings or terms and conditions in adverts are kept as clear and simple as possible in the interests of consumer understanding - and that this is particularly true of radio adverts. We would therefore encourage the FCA to do as much as they can to adopt an approach which acknowledges this for the benefit of both consumers and business.

26. We look forward to working with the FCA in the future in a number of ways :

- we are keen to help further understanding of how to maximise the effectiveness of risk warnings in advertising. With this in mind we are considering investing in further, more detailed, research and will involve our contacts at the FCA in the development of this project in order to ensure any outputs are relevant to your own work in this area;
- we have also already been developing dialogue with the supervision team at the FCA to share best practice and understanding. For example, our copy clearance experts at the RACC have recently run a mini workshop with three of the FCA's supervision team to share experiences and will continue to liaise with them as appropriate.

RadioCentre, December 2013

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Enclosures:-

Appendix 1 : The effect of lengthy terms and conditions on consumer attention and perceptions
Appendix 2: Improving the effectiveness (consumer attention and understanding) of legal caveats and risk warnings in radio advertising.