

RadioCentre response to FCA Consultation Paper CP15/6 published February 2015

Consumer credit – proposed changes to our rules and guidance

RadioCentre are delighted to respond to the FCA's Consultation Paper CP15/6 and specifically the questions outlined in Chapter 4 on Financial Promotions.

In responding to each of these questions we fully support the principle of ensuring consumers are effectively protected before entering into a financial agreement and therefore the need for some legal caveats in financial promotions where appropriate. However we now have a lot of evidence¹ that these are only effective when they are communicated clearly and simply and without excessive use of technical jargon. Our responses to your questions therefore reflect this.

Q9: Do you agree with the removal of the exemption from the HTSTC risk warning requirement?

- 1) We fully supported the work carried out by the FCA in their last consultation to significantly shorten the HTSTC risk warning and in doing so increase its effectiveness. On the basis that this is now much more clear and concise we would agree that this amendment adds greater consistency to its application.

Q10: Do you have any comments on our proposed changes in relation to “clear, fair and not misleading”

- 2) We agree with the FCA's high level principle of “clear, fair and not misleading”. However we are concerned that elevating this guidance to a rule (3.3.5) may result in a knee-jerk reaction from advertisers who will include additional unnecessary jargon in order to “play safe”.
- 3) Given the insurmountable evidence that adding too many caveats is counterproductive to consumer understanding (consumers just ignore them)², we would urge the FCA to take a sensible approach to supervision of “clear fair and not misleading” in the interests of consumer protection.
- 4) We appreciate the support we have had from the FCA in helping us identify opportunities to minimise over-compliance and the excessive use of unnecessary terms and conditions and would like to continue to work with you on this.

¹ RAB study 1: The Effect of Lengthy Terms and Conditions on Consumer Attention and Perceptions and RAB study 2: Improving the Effectiveness of Legal Caveats and Risk Warnings in Radio Advertising

² See 1 above

Q11: Do you have any comments on our proposed changes in relation to prominence?

- 5) We agree with the suggested amendment under 3.5.5 (5) that the information required under 3.5.5 must be “given no less prominence than” instead of “given greater prominence than” since this better reflects the fact that in media such as radio achieving “greater prominence” is difficult to achieve.
- 6) For the same reason, we also agree that 3.5.7R(2) should also be amended so that the APR is given “no less prominence than” any of the elements in 3.5.7R (1).
- 7) We also support the simplification of 3.5.10 R (1) and (2) (removal of prominence clause) as this is much clearer and simpler.

Q12: Do you have any comments on our proposed changes to the triggers for a representative APR?

- 8) We agree with the proposed wording to CONC 3.5.7R and the accompanying guideline 3.5.8. both of which clarify the application of this rule.

Q13: Do you have any comments on our proposed changes to other rules and guidance on financial promotions?

- 9) We acknowledge that clarifying the fact that “interest free” should be treated in the same way as “0% interest” (3.5.4G) makes the interpretation of this rule more consistent.
- 10) However, a representative example is the most extreme illustration of lengthy and complex legal caveats which we strongly oppose. Research shows that the level of detail included in a representative example simply does not work as a means of protecting consumers and that by contrast a shorter, more focused version lands the critical messages much more effectively.³
- 11) Over-lengthy terms and conditions represent a significant financial burden to industry . For radio alone the total industry cost is estimated at over £136 million a year and typically a full representative example can increase the cost of a national radio campaign from £300k to £400k.
- 12) Extending the need for a representative example to a promotion offering “0% interest” or “interest free” will further add to the number of occasions where a representative example is triggered, **even when the total amount payable is no greater than the cash price**. This does not benefit the consumer and if anything makes it harder for the consumer to absorb the most important legal caveats which would in any case be included under the FCA’s “clear fair and not misleading” principle as well as the BCAP Code.

³ RAB Study : Improving the Effectiveness of Legal Caveats and Risk Warnings in Radio Advertising.

- 13) To our knowledge the definition of “0% interest” or “interest free” as a trigger is not specified in the EU Consumer Credit Directive. We would therefore question whether its inclusion is in the spirit of the EU Consumer Credit Directive which sets out to “*offer a degree of consumer protection to ensure consumer confidence*” and which under Article 2 states that “*This Directive shall not apply to...(f) credit agreements where the credit is granted free of interest and without any other charges*”
- 14) We would therefore very much like an opportunity to discuss this further with you in order to identify opportunities for us to work together to seek a review of the legislation from which the representative example is derived and its application at both an EU and UK level.

Background

- 15) As the industry body for commercial radio in the UK, our role is to help support a strong and successful commercial radio industry so that it grows in audience and revenue year on year.
- 16) We promote the public value and diversity of commercial radio as well as the value of radio advertising.
- 17) RadioCentre includes the RACC team (Radio Advertising Clearance Centre) which ensures radio ads comply with the UK’s BCAP code and the RAB (Radio Advertising Bureau) which works closely with advertisers and agencies to increase their understanding of radio as an advertising medium.
- 18) We have already built up a strong working relationship with the FCA to help advertisers navigate the correct interpretation of the regulations relating to consumer credit promotions with very positive results to date.
- 19) Commercial radio is a relatively small sector generating over £575 million in advertising revenue per annum. However within this financial services advertising contributes approximately £130 million in advertising revenue and is therefore vitally important to the health of our industry.
- 20) A healthy advertising market is also vitally important to a vibrant and successful financial services industry and indeed to the economy as a whole. Based on the Advertising Association’s Study, Advertising Pays, we estimate that financial advertising on commercial radio contributes in excess of £750 million to the UK economy.

RadioCentre, April 2015

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