Radiocentre submission on behalf of the UK radio industry to the European Commission's REFIT Platform

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Executive summary

Radiocentre represents over 300 licensed commercial radio stations in the UK, generating over €750 million in revenues each year. 35 million people in the UK listen to commercial radio's mix of music, news, travel and local information every week. Radiocentre is a member of the Association of European Radios, which represents the interests of over 4,500 private/commercial radio stations across the EU28 and in Switzerland.

Radiocentre are pleased to submit to members of the REFIT Platform, requesting consideration of the impact that Article 4 of the Consumer Credit Directive (Directive 2008/48/EC on credit agreements for consumers) is having on commercial radio broadcasters, listeners and advertisers in the United Kingdom and across Europe.

Directive 2008/48/EC, better known as the Consumer Credit Directive (CCD) requires that standard information be provided in any advertising concerning credit agreements, which indicates an interest rate or any figures relating to the cost of the credit to the consumer in a ***'clear, concise and prominent way'***.

Advertisements for the banking and insurance sector but also for cars and retail are covered by these mandatory information requirements. The requirements apply to all media, but have a particular impact on radio advertising, as the information has to be read out loud. This represents over 25 words, typically adding 12-15 seconds of airtime to a radio advert (link to audio example below)

The commercial radio industry fully supports the Consumer Credit Directive's principles of facilitating a well-functioning internal market and ensuring consumers are adequately protected. But there is clear evidence that this Directive is negatively affecting financial services, motors and retail businesses as well as the radio industry, and that the standard information resulting from the CCD is failing to protect consumers.

The following submission outlines Radiocentre's concerns regarding the impact of Article 4 of the CCD from a UK perspective. The Association of European Radios intends to address the wider European impact in a separate submission.

Our concerns include:

- **Cost**: we estimate that complying with Article 4 of the CCD costs commercial radio stations and advertisers around €95 million a year in the UK alone.

- **Failure to inform and protect consumers**: independent research commissioned by Radiocentre shows only 4% of listeners recall the total amount payable immediately after hearing a radio advertisement with a consumer credit offer and that 58% of listeners thought terms and conditions were designed to protect the advertiser NOT the consumer.

- **Access to market**: the standard information requirements under the CCD result in longer advertisements. This means paying for additional radio airtime - a cost that many companies, especially small and medium sized enterprises (SMEs) wanting to advertise on their local radio station simply cannot afford, restricting their ability to invest in advertising.

- **Platform neutrality**: print, online and visual media can provide standard information requirements in text boxes or 'small print', but this information has to be read out in full on the radio. This means that the CCD has a disproportionate impact on the radio sector, that advertisers are abandoning commercial radio in favour of other media and that platform neutrality is not being respected. In the long term this could adversely affect the viability of commercially funded radio and media plurality.

- **Inconsistency with existing EU consumer law**: article 7.3 of the Unfair Commercial Practices Directive acknowledges that consideration should be given to "*limitations of space or time"* of the medium used to communicate with a person, when assessing whether information has been omitted leading to consumers making the wrong transactional decision. This includes steps taken to provide the information via other means.

- **No impact assessment**: no impact assessment was conducted by the Commission prior to the adoption of the Directive – a key component of Better Regulation. Had one been conducted, the unintended consequences of this regulation on industry would undoubtedly have come to light. Advertisers and broadcasters were also not consulted during the 2013/14 review of the Directive.

The commercial radio industry is not asking for special treatment for radio; nor are we questioning the overall aims of the CCD, which we fully support. We are asking for fair treatment. We believe that improving the effectiveness of the standard information requirements under Article 4 would help ensure a level playing field for commercial radio, result in increased advertising spend and deliver a higher level of protection for consumers in the UK and across Europe. We stand ready to work with Members of the REFIT Platform, advertisers, regulators and consumer groups to deliver a solution.

Click on the link below to listen to an audio example of how standard information requirements sound in a radio advertisement for Renault Clio

. http://www.radiocentre.org/files/Renault_Clio_Romance_Season_MIFRNRN589R040.mp3

The case for change

1. Cost to industry

1.1. The Consumer Credit Directive's advertising regulations impact on the radio industry as well as the financial services, motors and retail sectors.

1.2. The economic impact of lengthy financial terms and conditions across these sectors for radio advertising is estimated at over €150 million per annum (€155m at current rates)[1]. €95 million of this is estimated as being due to the credit advertising regulation from the CCD.

This figure comprises:-

1.2.1. The additional cost of airtime to the advertiser because advertisements have to be longer to accommodate the terms and conditions which have to be read in real-time.

1.2.2. Reduced return on investment for advertisers due to a reduction in the effectiveness of the advertising

1.2.3. Lost revenue for radio stations because many advertisers are put off by the lengthy financial terms and conditions (points 3.3 and 3.4 below).

The table below illustrates how this figure is broken down by each of these three areas

Economic impact of lengthy financial terms and conditions in radio advertising on UK business	
Type of cost	**Estimate annual value (€million)**
Cost of airtime to advertiser[2]	€32m
Loss to advertiser due to reduced return on investment[3]	€78m
Lost revenue to radio[4]	€45m
TOTAL	**€154m**

1.3. This is not just a UK issue – the Consumer Credit Directive is also having an economic impact on other markets. The Association of European Radios will be addressing this wider European perspective in a separate submission.

[1] Exchange rate used throughout this document: £1 = €1.2941 (FT 10.03.16)
[2] Cost of airtime of terms and conditions for financial ads within the retail, finance and motors sectors where terms and conditions exceed 5 seconds. Calculations based on Nielsen media data and Radiocentre script analysis of over 150 radio scripts
[3] Return on investment for financial, retail and motors ads carrying longer ts and cs (over 5 seconds) multiplied by reduction in engagement levels in advertising containing lengthy terms and conditions. Sources: Nielsen, Radio the ROI Multiplier + Radiocentre commissioned research Jan 2016 with Other Lines of Enquiry on the effect of terms and conditions on the listener
[4] Incremental value of bringing advertisers within affected sectors who currently invest below radio's average share of media spend in line with the average. Source for base data Nielsen Jan-Dec 2016

2. Failure to inform and protect consumers

2.1. The principle aims of the standard information requirements of the CCD are to enable consumers to "compare different offers" and offer "a sufficient degree of consumer protection to ensure consumer confidence" and state that "Such information should be given in a clear, concise and prominent way by means of a representative example".

2.2. The radio industry fully supports this principle. But there is clear evidence that the current approach for advertising is not working:-

2.2.1. In an independent study commissioned by Radiocentre 70% of listeners confirmed that they preferred to read the terms and conditions in their own time on a website, many of the remaining 30% preferring to read them in print. Time and the need to give greater attention to detail were the main reasons cited.[5]

2.2.2. In a 2013 study commissioned by the UK government to understand consumer attitudes to high cost short term credit advertising, respondents were not receptive to detailed figures relating to costs and risks of loans in advertising, preferring a clear simple warning with signposting to further sources for help.[6]

2.2.3. In the 2004 Navigator Study "Radio Commercials and Wealth Warnings", consumers viewed advertising as primarily helping them expand or construct a shortlist of providers. Detail was thought to be more helpful and relevant once actively engaged in researching a decision, particularly given the nature of the product category where further interaction with the provider would be required before taking out a product.[7]

2.3. When information becomes too detailed consumers "zone out" and miss critical information:

2.3.1. Attention levels can drop by as much as 50% when the standard information is read out at the end of a radio ad

2.3.2. And less than **4% of listeners could recall the total amount payable immediately after hearing a radio ad with a consumer credit offer** despite this being a vitally important piece of information in order to ensure consumers aren't misled[8].

2.4. **Furthermore there is evidence that simpler, more consumer friendly information makes it easier for consumers to absorb critical facts and understand the potential risks**:

2.4.1. In a GFK study in Holland over 65% of consumers could spontaneously recall the risk warning "Borrowing money costs money" within just 6 months of launch[9];

2.4.2. In a study of 800 radio listeners **recall of the total amount payable trebled when the standard information requirements were simplified in a radio ad**[10]

2.5. Radiocentre are constantly seeking to work with research partners to help understanding of the impact of financial terms on consumer recall and understanding and are currently exploring further academic research. We would be happy to share any further insights from

[5] Financial Terms and Conditions and the Consumer Credit Directive: an update and latest research commissioned by Radiocentre with Dipsticks Research June 2015.
[6] Making Consumer Credit Markets Fairer, by Ipsos Mori Social Research Institute 2012
[7] Navigator : Radio Commercials and Wealth Warnings 2004
[8] Footnote 5 above
[9] GFK panel research on behalf of AFM Holland, base 1038 consumers
[10] Footnote 5 above

this work with the Commission as soon as this is available.

3. Access to market

3.1. Advertising is vital to a healthy economy. The UK Advertising Association's study Advertising Pays demonstrates that every £1 spent on advertising generates £6 for the economy, an estimated total of £100 billion per annum (€129 billion)[11].

3.2. The standard information requirements of the CCD affect not only financial services but also retail and motors. In combination these three sectors represent more than a quarter of all advertising spend in the UK[12] (including a third of radio revenue), and as such contribute substantially to the UK economy (estimated combined contribution €24 billion per annum[13]). These sectors include large multinational companies operating on a pan-European basis as well as small and medium sized enterprises such as local retailers and car dealerships.

3.3. Being able to offer credit facilities is a vital part of the business model for these sectors and radio is an important medium for getting this message out to large audiences to drive footfall. However the standard information requirements increase media costs on radio by more than a third[14], restricting the ability of many companies including small and medium sized enterprises to invest in advertising.[15] Currently the additional radio airtime costs to financial, motors and retail advertisers driven by financial terms and conditions is estimated at €32million per annum.

3.4. Complex terms and conditions also damage consumer perceptions of businesses and impact on return on investment. In a study of 800 radio listeners over 58% thought terms and conditions were designed to protect the advertiser NOT the consumer.[16] Negative perceptions of complex financial terms result in more than a 10% reduction in overall ad effectiveness and hence potential return on investment.[17] Current calculations estimate the potential loss of revenue due to the reduced impact of advertising carrying lengthy financial terms and conditions to be €78 million[18]

3.5. In total financial terms and conditions in radio advertising alone are costing advertisers approximately €110 million per annum in airtime costs and reduced revenue.

4. Platform neutrality

4.1. UK Commercial Radio provides an important service to 35 million listeners, including public service programming such as local news and events. It provides plurality of voice both

[11] Advertising Pays: How Advertising Fuels the UK Economy by The Advertising Association and Deloitte 2012
[12] Nielsen Jan-Dec 2015
[13] Calculation based on Nielsen Jan-Dec 2015 and Advertising Pays 2012
[14] Over 10 seconds on top of a 30 second spot
[15] Advertising Pays 2 reports that many SME's underinvest in advertising despite this being vital for long term growth and cost is cited as a key reason
[16] Financial Terms and Conditions and the Consumer Credit Directive: an update and latest research commissioned by Radiocentre with Dipsticks Research June 2015.
[17] Radiocentre research Jan 2016 with Other Lines of Enquiry on the effect of ts and cs on the listener
[18] See 1.2 above

nationally and locally alongside the publicly-funded BBC, adds significant value to the economy and supports the music and creative industries.

4.2. A relatively small media sector, commercial radio relies on advertising revenues of €750 million per annum to invest in its programming and provide the highest quality and range of services to its listeners.

4.3. Complex financial terms and conditions such as the standard information requirements of the CCD result in poor commercial audio outputs and reduce the quality of the listener experience. Many advertisers confirm that this issue, together with additional airtime costs, have resulted in radio being avoided and in some cases campaigns being cancelled before going to air. The resulting loss of revenue for radio stations is currently estimated at €45 million or over 6% of commercial radio's total annual revenues.

4.4. Commercial radio already faces a number of threats to its long-term business model (including the shift to online advertising, increasing competition from digital music services and the dominance of public broadcasters). If this is compounded by a growing loss in revenue from advertising regulation it could ultimately threaten the long-term viability of commercial radio stations and damage plurality and choice for listeners.

5. Inconsistency with existing EU consumer law

5.1. Article 7.3 of the Unfair Commercial Practices Directive 2005 already acknowledges that consideration should be given to "limitations of space or time" of the medium used to communicate with a person when assessing whether information has been omitted leading to a wrong transactional decision, including steps taken to provide the information via other means. This principle was also picked up in the explanation of amendment 166 of the Draft Recommendation for Second Reading of the CCD by the European Parliament (see para 6.4 below for more details).

5.2. The general approach of the Council of the European Union (File 2015/0149(COD)) published 27 November 2015 setting a framework for energy efficiency labelling states that "In the case of radio advertising it would be appropriate for implementing acts to provide for less comprehensive details to be included". This sets a valuable precedent for considering the role of different media in communicating key messages.

5.3. Effective regulation should consider how media are consumed and therefore the likelihood of the consumer absorbing the detail. For example 88% of TV is still viewed live and 99% of radio is listened to live [19]. Complex financial information needs time to be absorbed and important figures can be missed if lost in too much detail.

5.4. "Form Matters" (2013)[20] written by Dr Natali Helberger of the Institute for Information Law at the University of Amsterdam talks about the effective communication of contract information. A number of findings from this report are also relevant to the communication of the standard information required by the Consumer Credit Directive. In particular the report states that consumer information is "not a one-time act, it is a process". Advertising sits at the start of that process when consumers will register headlines rather than detail

[19] Source: BARB/RAJAR/Midas UK audience data

[20] Form matters, Informing Consumers Effectively by Prof Dr Natali Helberger, Institute for Information Law, commissioned by BEUC

("consumers are real not ideal"[21]). Research demonstrates that advertising is much more effective at communicating clear simple messages with signposting to online or printed sources for the full standard information where greater time and attention can be given to understanding the detail and making effective comparisons.

6. <u>No impact assessment</u>

6.1. No impact assessment was conducted by the Commission prior to the adoption of the Directive – something that is now standard practice. Had this been the case the unintended consequences of this regulation on industry would undoubtedly have come to light.

6.2. However in 2007 the European Parliament's IMCO Committee did commission an economic impact analysis of the proposed directive. **The study reported the advertising and pre-contractual information obligations as being "clearly seen by creditors as having major adverse impact on their operations"**, citing "additional administrative burden" as well as "hindering advertising" as expected effects. Furthermore banking associations raised significant doubts about the ability of the information requirements to protect consumers, citing, amongst other issues, the "risk of overloading consumers with too much and duplicated information"[22].

6.3. The same study reported that the banking industry has in various statements suggested that **the information requirements of the CCD had not been fully tested with consumers,** nor had a public hearing been organised to allow stakeholders to express opinions. Had this been the case, based on research and evidence now available, the ineffectiveness of this advertising regulation would have become much clearer.

6.4. Suggested amendments in the 2007 Draft Recommendation for Second Reading by the European Parliament already highlighted some of these issues and recommended a simplification of the standard information requirements, including amendments 162 and 163 and particularly amendment 166[23]

6.5. In 2013/14 a review of the Consumer Credit Directive was reported by the Commission to the European Parliament[24]. This included a study by Ipsos and London Economics on the functioning of the credit market in Europe[25]. However, any evaluation of the advertising regulations by this study focused purely on levels of implementation by member states through audit. **The true impact of the advertising regulations and the standard information requirements on consumer recall and understanding was not researched** although the study did demonstrate that radio ads are the least used source of information when investigating options for a credit product. Furthermore the study included a survey of consumer associations, lending associations and regulators but **no consultation was carried out with advertising associations, media trade associations or indeed radio broadcasters.**

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[21] Form matters (details above), page 49

[22] EP Impact Analysis 2007 chapter 4.6.2 Advertising and pre-contractual information requirements

[23] Pages 22-25 of Draft recommendation for second reading dated 14.11.2007 (PE396.526V02-00)

[24] Report from the Commission to the European Parliament and the Council on the implementation of Directive 2008/48/EC, 2014

[25] Study on the functioning of the consumer credit market in Europe July 2013, Ipsos and London Economics

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Appendix – Audio example

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