

## ***Ts&Cs May Not Always Apply***

### ***Making them work for brands and listeners.***

### ***Introduction***

Terms and conditions or Ts&Cs, also sometimes referred to as "legals", "caveats" or "tags", can get added onto the end of radio ads for a variety of different sectors. However, unlike other media, for radio they have to be read aloud in real-time, which can be an issue if they become too long and complicated.

So why are they needed, what effect do they have and are there ways of reducing their length? This guide is not intended in any way to compromise the regulations which necessitate Ts&Cs, but to clarify their purpose and illustrate ways of making them work as effectively as possible for both brand and consumer, as well as compliant with current regulations.

### ***How are radio ads regulated?***

The **UK Code of Broadcast Advertising (BCAP Code)** sets out the standards and regulations with which all radio ads must comply

The **Advertising Standards Authority (ASA)** is responsible for enforcing the code and can take steps to have any ads which breach the code removed or amended

**Radiocentre Clearance** are responsible for checking that advertising messages on commercial radio stations comply with the BCAP Code

The **Financial Conduct Authority (FCA)** is responsible for the regulation of financial promotions, including radio. Their rules are set out in their Handbook.

### ***Why do we need Ts&Cs in radio ads?***

In a nutshell Ts&Cs are there to make sure that ads don't mislead consumers by omitting important information.

All radio advertisements must comply with the UK Code of Broadcast Advertising (BCAP). The Code states that advertisements must **not mislead consumers** 'by omitting material information' and explains that 'material information is information that consumers need in context to make informed decisions about whether or how to buy a product or service.'

Financial advertisements must also comply with the Financial Conduct Authority's Handbook and Principles for Business. Whilst this does set out some mandatory

information for certain types of promotions<sup>1</sup>, their overriding principle is that all financial promotions must be **"clear, fair and not misleading"**.

These principles are really important when considering not just what is said in the ad but also what **additional qualifying information** might be needed without which the consumer would be misled, hence the need to sometimes include Ts&Cs. Radiocentre Clearance will check compliance with the BCAP Code and can also give general guidance on FCA requirements. Ultimately the advertiser must decide what information is needed to ensure compliance with FCA rules.

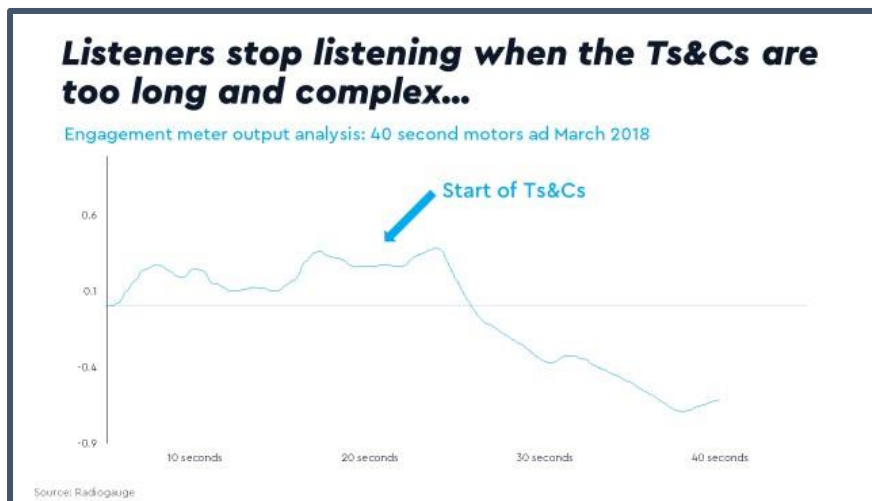
## **The realities of working with Ts&Cs on radio**

For the majority of radio ads, Ts&Cs aren't an issue. But long and complicated Ts&Cs become problematical for three reasons:

Firstly, lengthy Ts&Cs cost money in additional airtime, or at the very least they leave less room for the ad itself and restrict creativity.

Secondly, they "switch listeners off" so they stop listening (figure 1), and can even negatively affect brand perceptions.

Figure 1



Finally, and most importantly for regulators and company compliance or legal teams, when the Ts&Cs are too long **they fail to do the job they are there to do in the first place**, which is to ensure listeners make informed choices on whether to act or not.

It can be tempting to include lots of information in the Ts&Cs to avoid risk of misleading by omission, but all the evidence points to the fact that this can have the opposite effect.

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<sup>1</sup> For example FCA CONC 3.5.3 relating to the requirement for a representative example where an amount relating to cost of credit is given in a credit ad.

Over a number of years, Radiocentre have commissioned a lot of research into the effectiveness of Ts&Cs on radio. The focus has been on financial information, but the same general principles can be applied to other sectors. Further information can be found [here](#), but below are just some of the reasons why long and complex Ts&Cs on radio fail to hit the mark on consumer protection:-

- 98% of radio listening is in real-time, so Ts&Cs read out on air have to be heard and processed there and then
- Consequently the vast majority (over 72%) of listeners would prefer to read Ts&Cs in their own time where they have a better chance of absorbing and understanding them.
- Over 60% of listeners (and 70% of 18-24s) believe the terms and conditions are merely there to protect the advertiser, so they just zone out and stop listening.
- Recall of figures can be particularly problematic and a challenge for sectors such as finance, motors and telecoms. When important figures are embedded in long and complex Ts&Cs, recall is less than 4%, even immediately after listeners have heard the ad, and, worse case, can drop to zero when radio listening is accompanied by other tasks (9 out of 10 listening occasions).

However, on a positive note, research also demonstrates that when Ts&Cs are reduced to focus on critical information only, the likelihood of listeners recalling important figures can treble or even quadruple.

***The challenge for advertisers and their legal or compliance teams therefore is how to comply with the rules to ensure listeners are adequately informed, but in a way which doesn't overload the listener and render the Ts&Cs ineffective.***

## **Making Ts&Cs work better**

If your ad is just a branding message or a simple offer which needs no qualification then you won't need any Ts&Cs. And some Ts&Cs are fine if they are relatively clear and simple.

But what about when those Ts&Cs get longer and more complicated (a general guide would be longer than 5 seconds)? How do you comply with the rules whilst ensuring your Ts&Cs are as clear and simple as possible so listeners can absorb and understand them? Below are some suggestions:

### **1. Ask yourself what is really important in your ad**

Sometimes the Ts&Cs become necessary because a single detail about the offer has been included e.g. an interest rate or monthly cost for a credit ad, or a limited price offer. So it is worth considering whether that detail is really necessary on radio.

Radio works extremely well at building brand awareness and reinforcing messages in other media but, as our Ts&Cs research demonstrates, it is not always the place for lots of detail. Consider how radio can be used to boost the effectiveness of your campaign in the context of other media.

***What's important: telling them about the specific detail which is necessitating those Ts&Cs or encouraging them to have a look online for more information about your offer?***

## 2. Don't overdo it!

Make sure that any Ts&Cs included in your ad are really necessary before you sign it off. ***Remember you may be doing your consumers a disservice if you make them too complicated.***

Sometimes advertisers include terms at the end of radio ads which aren't always needed in order to comply with the rules, resulting in Ts&Cs becoming even longer. It might seem simpler to take a "belt and braces" approach but if it results in too much information this isn't going to help either you or your consumer. ***You may think you are "informing" but you might be having the opposite effect.***

### **FCA regulated motors ads**

One of the sectors where Ts&Cs can become particularly long is motors, often when the ad includes a financial offer. To address this, in January 2020 the FCA approved the publication of [FCA Confirmed Industry Guidance for Motors in radio advertisements](#). This acknowledges that lengthy Ts&Cs aren't always in the interests of consumers and lists a number of common terms which get included in motors credit or lease offers on radio but aren't always required and explains why. The list is not designed by any means to be exhaustive but it does cover some of the most common examples.

### **BCAP regulated ads**

An important piece of legislation which the Advertising Standards Authority considers when investigating complaints is the Consumer Protection from Unfair Trading Regulations (CPRs), also cited in Appendix 1 of the [BCAP Code](#).

Under the CPR's the effect of an advertisement is generally considered in the context of the average consumer the ad is talking to and whether the omission of information is likely to lead the consumer to take a course of action which he or she wouldn't otherwise have taken.

***Consider what difference adding that extra piece of information in your Ts&Cs will really make to the consumer.*** Is it something you would expect your consumer to know anyway or would excluding it result in the listener taking an altogether different course of action?

One further observation is that people often put 'conditions apply' or 'ts and cs apply' in an ad without really thinking about what claim it relates to and whether it is really needed. For example, simply giving a price in an ad doesn't automatically mean a conditions tag has to be included.

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*The BCAP Code states that “material information is information that consumers need in context to make informed decisions about whether or how to buy a product or service. Whether the omission or presentation of material information is likely to mislead consumers depends on the context, the medium and, if the medium of the advertisement is constrained by time or space, the measures that the advertiser takes to make that information available to consumers by other means”.*

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### 3. Avoid repetition

Sometimes we get examples of Ts&Cs which include information which has already been stated in the ad itself. Remember, **when the Ts&Cs at the end are too long the listener is more likely to zone out so it's not worth including the information twice.**

### 4. Finally, get creative (but stay compliant)

Once having worked out what Ts&Cs are needed for a particular advertisement, it's worth trying to find ways of making sure the most important information lands effectively without any negative impact on the brand. For example:

- a. If the information is central to the offer, could some of it be included in the ad itself?
- b. Don't try to gabble them so fast that it's difficult for the ear to follow. Not only is it against the rules but it can irritate the listener. Always remember that any Ts&Cs you do need to include must be audible.

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*Warning: A recent radio ad for a telecoms brand received a complaint which was upheld by the ASA because the terms and conditions included in the ad were read too quickly for them to be clear and intelligible to the listener*

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- c. Think about how you can make the Ts&Cs sound better. Using the same voiceover at the end and even retaining the same music bed behind the Ts&Cs can make them easier on the ear. But remember, if you do this, the Ts&Cs must still be heard – don't use music just to drown them out!

## Putting it into practice

The examples below illustrate how Ts&Cs can be reduced to make them easier for the listener to absorb whilst remaining compliant with the relevant rules

**Example 1:** A pizza delivery brand runs an ad on radio promoting pizza with a soft drink. The Ts&Cs at the end are given below and suggested changes highlighted in red. Whilst "at participating stores" may be necessary if the particular soft drink wasn't available in all locations where the ad was running, price wasn't mentioned in the ad, so the additional references in the Ts&Cs are more confusing than relevant and will make no difference to how the listener will decide to act.

Ts&Cs "At participating stores. ~~Prices may vary. Soft Drinks Levy may apply.~~ See ~~Ts&Cs at~~ [company website] **for details**".

**Example 2:** A PCH offer for a car dealership advertises a new model for just £199 a month with an initial rental payment of £1,000. The Ts&Cs included a number of terms which could be simplified or excluded under our FCA Confirmed Industry Guidance. Changes are highlighted in red. Other examples for motors financial promotions can be found in the guidance itself [here](#).

Ts&Cs "4-year ~~lease 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."

**Example 3:** A company promotion offers free delivery for orders over £5. The ad itself states "[Company] are now offering free delivery for orders over £5". Because this is clearly stated in the ad, the same information doesn't need to be repeated in the Ts&Cs (highlighted in red below).

Ts&Cs : "~~£5 minimum spend may apply.~~ Participating stores only. For more information go to [www...](#)"

## ***Need further help?***

**For a general introduction** to copy clearance on radio, Radiocentre's clearance team run courses which will take you through everything you need to know to get scripts cleared. Click [here](#) for more information.

**For product category information**, our copy guidelines cover a whole range of product sectors. Click [here](#) to find out more.

**For specific issues or questions**, our clearance team can offer advice. Email [clearance@radiocentre.org](mailto:clearance@radiocentre.org)

**Bespoke workshops.** We are able to run workshops for specific product sectors across marketing and compliance or legal teams. Currently we are offering bespoke workshops to motors advertisers exploring the implications of our FCA Confirmed Industry Guidance. However if you look after another sector and are struggling with long and complex Ts&Cs in your ads, do get in touch. Email [Judith.spilsbury@radiocentre.org](mailto:Judith.spilsbury@radiocentre.org)

## ***Useful links***

[Radiocentre Clearance](#)

[Overview of Radiocentre research studies into long and complex Ts&Cs](#)

[FCA Confirmed Industry Guidance](#)

[BCAP Code](#)

[FCA Handbook](#)