



OFFICE OF FAIR TRADING

CREDIT ADVERTISING – ‘FROM APRs’

February 2000

OFT300

A guidance note outlining the Director General’s views on the issue of complaints regarding the use of ‘from APR’ rates in credit advertisements

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1 CREDIT ADVERTISING - 'FROM APRS'

- 1.1 The Office of Fair Trading has received complaints regarding the use of 'from APR' rates in credit advertisements. It has been alleged that such advertisements may contravene the Consumer Credit (Advertisements) Regulations 1989 (SI 1989/1125) and/or may be false or misleading within the meaning of section 46 of the Consumer Credit Act 1974.
- 1.2 The purpose of this note is to set out the Director General's views on the issue, pursuant to his licensing responsibilities under the Consumer Credit Act and following discussion with LACOTS.

The Regulations

- 1.3 Paragraph 7 of both Parts II and III of Schedule 1 to the Regulations require the statement of "the APR in relation to any actual or prospective agreement" or "the APR in relation to a debtor-creditor-supplier agreement". These provisions clearly envisage the advertising of a **single** APR.
- 1.4 Schedule 1 Part II sets out the maximum information to be contained in an intermediate credit advertisement. Other than the compulsory information set out in paragraphs 1-9 of Schedule 1 Part II, no information may be shown indicating that a person is willing to provide credit other than as set out in paragraph 10. Paragraph 10(e) permits a statement of "the APR".
- 1.5 Regulation 3 provides that, where an advertisement refers to a class of transactions, there may be substituted for "the APR" representative information (ie a typical APR) together with an indication that the information is representative. In the Office's view, a "class" of transactions relates to the type of credit offered (eg secured loans, unsecured loans, hire purchase), and a "representative" APR would be the APR at (or below) which the majority of loans by number arising from the advertisement are expected to be (or have been) made.
- 1.6 In the Office's view, a 'from' rate is information indicating a willingness to provide credit, but relates to a **range** of rates rather than a single rate – by definition, it is the lowest point in a range.
- 1.7 As it is not listed in the optional information set out in paragraph 10 of Schedule 1 Part II, and is not a statement of "the APR" for the purposes of paragraph 7, it follows that a 'from' rate may not be included in an intermediate credit advertisement.
- 1.8 If a 'from' rate is included in a full credit advertisement, this must be as information additional to the minimum required by Schedule 1 Part III. There must be a statement of "the APR" as required by paragraph 7, or of a 'typical' APR in accordance with Regulation 3.
- 1.9 Furthermore, this would be subject to the prominence requirements in Regulation 8. Regulation 8(1)(a) requires that "the APR" be afforded greater prominence than any other rate of charge, which would include a 'from' rate. Regulation 8(2) requires that any 'wealth warning' required in the advertisement be afforded no less prominence than any other information relating to credit, which would include a 'from' rate.
- 1.10 **Summary:** A 'from' rate may not be included in an intermediate credit advertisement. It may be included in a full credit advertisement only if (a) there is also a 'typical' APR for the class of transactions in question, (b) the 'from' rate is less prominent than the 'typical' APR and (c) the 'from' rate is no more prominent than any 'wealth warning'.

Section 46 CCA

- 1.11 Section 46 of the Act provides that if a credit advertisement conveys information which in a material respect is false or misleading the advertiser commits an offence. Information stating or implying an intention on the advertiser's part which he has not got is false.
- 1.12 Section 47 provides that, where an advertiser commits an offence under section 46, or under the Regulations, a like offence is committed by the publisher of the advertisement, or the person who devised the advertisement, or the person who procured its publication.
- 1.13 In the Office's view, the use of 'from APR' rates could, in certain circumstances, be held to be misleading in a material respect, over and above any breach of the Regulations. This would depend, among other things, on the way in which the 'from' rate is presented, its relative prominence, and the inclusion and prominence of other information. For example, if the products to which the 'from' rate applies are of limited availability, and this is not made clear in the advertisement, or if (contrary to the requirements of the Regulations) there is no 'typical' APR shown or this is afforded insufficient prominence. If the 'from' rate applies only to loans of a certain type or amount or duration, or is subject to certain conditions, or is limited to certain types of borrower, this should be made clear in the advertisement.

The DG's Licensing Responsibilities

- 1.14 In considering fitness to hold a consumer credit licence, the Director General is required by section 25(2) of the Act to have regard to any circumstances appearing to him to be relevant, and in particular, among other matters, whether the trader has contravened any provision made by or under the Act, or has engaged in business practices appearing to the Director General to be deceitful or oppressive or otherwise unfair or improper (whether unlawful or not).
- 1.15 Under section 25(2), the fitness of a licensee can be brought into question by the actions of any of its employees, agents or associates (whether past or present), and section 25(3) defines 'associate' for these purposes as including a business associate.
- 1.16 Each case would fall to be considered on its merits, and the Director General would wish to take into account in particular whether there had been, or was liable to be, any detriment to consumers, and the likely extent of such detriment.
- 1.17 If firms are in any doubt as to whether a particular credit advertisement would be likely to breach the Regulations and/or section 46 of the Act, or its publication regarded by the Office as an unfair business practice, they should consider taking legal advice on the point. Their trade association, or local trading standards department, may also be able to offer advice.