

A photograph of two women in an office environment. The woman on the left has long brown hair and is wearing a brown jacket with a light-colored scarf. The woman on the right has long dark hair and is wearing a dark grey top with a long necklace. They are both looking at a computer monitor. The background shows a window with a grid pattern and some office equipment.

divido

Instalments made simple

A Guide for Credit Advertising

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This guide is issued on the explicit understanding that it should not be regarded as legal advice or taken to be an authoritative view of the law. The guide includes references to certain views expressed by The Financial Conduct Authority, The Office of Fair Trading and extracts from BIS Consumer Credit Directive Guidelines.

Divido does not accept responsibility for the legal accuracy of the information contained in this document.

Control over consumer credit advertising is now within the Financial Services and Markets Act 2000 (FSMA). Under FSMA the Financial Conduct Authority (FCA) is now responsible for consumer credit regulation. The FCA has created a new rulebook called the Consumer Credit Sourcebook that details requirements that must be complied with by providers and introducers of credit. Chapter 3, which is entitled “Financial promotions and communications with customers”, lays down advertising rules for the advertising of all credit products regulated by the Consumer Credit Act 1974 (CCA). This easy reference guide aims to help retailers formulate their marketing activities both online and in print, in order to comply with the rules detailed in chapter 3 of the Sourcebook. The Sourcebook applies to adverts across all types of media, and typically refers to adverts as financial promotions.

General Rules:

- Advertisers must be sure to use easy to understand language that is not misleading.
- If the advert contains any triggers (see page 4), other information about the finance offer must also be displayed. This is referred to as the “representative example” and should include all relevant information, known as standard information. (see page 2 for an explanation of what standard information includes).
- All of the information must be given equal prominence relative to each other, displayed together and given greater prominence relative to: any other information relating to the cost of credit, any incentive, or any comparative indicator. In other words, you can not hide details of the offer in small text.
- In addition, you should not repeat any of the information stated as part of the representative example to afford it greater prominence. This is known as ‘cherry picking’ and is prohibited under the regulations.
- All adverts offering credit must include the name of the advertiser as shown on the FCA’s Financial Services Register. Under the regulations, the advertiser is the person who is identified in the advert as the person who is willing to enter into the transaction advertised. This could be the retailer, the lender or both.
- The full postal address of the advertiser must be shown on all material which displays a rate of interest or an amount relating to the cost of credit (except in relation to television, radio or any point of sale material which remains on the premises of the retailer).

- The Sourcebook requires that the extent of a retailer’s independence in referring customers to a lender is disclosed on its advertising material. Therefore, one of the following alternative forms of wording must be included in all adverts:
 - “(Retailer name) acts as a credit broker and only offers credit products for Divido” or “Credit is provided by external finance companies as determined by (Retailer name).”
- All adverts must include an appropriate statutory status disclosure as required by the FCA’s General Provisions Sourcebook. Such disclosure should state the nature of the authorisation and regulation of the company concerned: “Company X is authorised and regulated by the Financial Conduct Authority”.
- It is also important to include some small print explaining that finance is given subject to status. For example, “Credit provided subject to age and status”.

Standard Information:

- Standard information is to be included in a representative finance example and it must include the following:
 - Annual rate of interest (showing whether it is fixed or variable)
 - Total amount of credit
 - Representative APR
 - Cash price of the goods
 - Deposit amount
 - Duration of the agreement
 - Total amount payable
 - Monthly repayment
 - Any other charges that apply
- This information can be displayed in a table or sentence form.
- The purpose is to provide easy to understand information with each point having equal prominence relative to each other so the borrower can assess the suitability and affordability of the offer.
- The representative should be given greater prominence than other incentives to take credit, any comparative indicators that credit is available on better terms than elsewhere, any reference to poor credit history and any other information relating to the cost of credit.

Representative Example			
Purchase price	£1399.00	Total repayable	£1594.91
Deposit	£399.00	Duration of agreement	24 months
Amount of credit	£1000.000	Rate of interest	19.5%
24 monthly payments	£49.95	19.5% APR Representative	

In Practice:

- It is best to always include the following information in all of your adverts and credit web pages
 - Your full business name and address
 - The required statutory status disclosure
 - Text explaining that finance is subject to status
 - Text which explains that you are independent and act as an intermediary

As an example:

Tri Electric is registered in England and Wales 12345678. Registered office: 1 The Street, Anytown, Wessex WED 5LT. Tri Electric acts as a credit intermediary and only offers credit products from Divido. Tri Electric is authorised and regulated by the Financial Conduct Authority. Our registration number is 123456. Credit provided subject to age and status.

When to display the representative example:

- When the advert includes an interest rate or any amount relating to the cost of credit
- Retailers may refer to the Business, Innovation, and Skills Department's guide on such policies. While regulations have changed since this guidance was issued, it still contains useful guidance in relation to consumer credit advertising. You may find their guide here and refer to the Advertising section, 6.7.
<https://www.gov.uk/government/publications/consumer-credit-regulations-guidance-on-implementing-the-consumer-credit-directive>
- Or refer to their quick start guide here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/422679/bis-10-1072-consumer-credit-directive-quick-guide.pdf
- It is important to note that a representative example must also be displayed for interest free adverts.

When to display the representative APR alone:

- Whenever the representative example is displayed, the representative APR must be included in the information
- The APR itself may be triggered (see below) by the inclusion of any incentive, comparative indicator or reference to poor credit history. In this case, the APR should be given greater prominence in regards to any incentives, comparative indicators or references to poor credit history.

Which APR to display:

A retailer may offer various finance deals at various rates. You may display specific products with their individual APR, but each advert must have only one representative APR. The representative APR is the rate at which the advertiser reasonably expects to write at least 51% of the deals he/she will enter into as a result of the advert.

How to display the representative APR:

“15.9% APR representative” or “representative 15.9% APR”. The prominence rules apply to the “15.9% APR” and this part of the representative APR citation cannot be displayed in any other way, such as “APR 15.9%”.

What is a trigger?

A trigger is a piece of information, when included in the advert, means that either the representative example or the representative APR must also be included. For example, you can't show a monthly repayment without displaying the 'standard information' which illustrates all the items of the finance offer because you can't afford the monthly repayment greater prominence than the 'standard information'.

What is an incentive?

An incentive may include statements such as:

- 5% cashback
- No fee loans
- No deposit required
- Low interest rates
- Get a free gift
- Quick decision
- Decision in minutes
- Fast application
- Fast payment
- Money in 24 hours

Please note that this is not a comprehensive list and the FCA may handle issues with interpretation on a case by case basis.

Consequences for failing to comply with regulations:

- It is an offense under the Consumer Protection from Unfair Trading Regulations for any marketing material to convey information which is false or misleading.
- Under FSMA it is a criminal offence for anyone to carry out a regulated activity, including consumer credit activities, unless they are either an authorised person or an exempt person.
- A person can not carry out financial promotions unless:
 - They are an authorised person or
 - The content of the financial promotion is approved by an authorised person
- It is a criminal offence to publish a credit advertisement that does not comply with regulations.

- The FCA will take into account failures to comply when considering whether to issue, renew, vary, suspend or revoke a firm's permission to carry out consumer credit activities.
- Unless a firm takes reasonable steps to ensure that a communication or financial promotion is clear, fair and not misleading, a consumer may have a right of action under Section 138D of FSMA.
- The firm may also be subject to regulatory sanction for breach of the Sourcebook which explicitly requires firms to be clear, fair and not misleading.
- In addition to legal repercussions, there is also a risk of reputational damage if the regulatory bodies intervene as well as financial costs to stop and replace the advertisements.

Tips for advertising:

Make sure your offer is highly visible throughout your website so that consumers know you offer credit before they even begin searching for products. Introducing credit from the beginning is the key to attracting new customers, increasing sales, profit, conversions and average order values. Some key things to remember:

- Promote finance right from the beginning
- Give the customer all the facts; the representative example, who can apply, how to apply and provide a FAQ answering common questions
- Showcase all the benefits of finance; low monthly cost, deferred payments, increased spending power, ability to spread costs, convenience of an additional credit line, etc.
- Reinforce that finance is available in the shopping cart as well. Include the available finance options in the shopping cart, if customers are below the minimum include how much more they need to spend to qualify.
- Create an information page. Include detailed information about your finance options to make it easier for the customers.
- Inform your customers that checks will be conducted in order to confirm i) the affordability (of the credit sought) to the customer and ii) the creditworthiness of the customer.
- Maximize acceptance rates by clearly stating the eligibility criteria. Also consider your credit offers and what type of customers they will attract.

Where to obtain official information on Credit Advertising:

- The Consumer Credit Act 1974 can be found below, but please be aware that some sections have been revoked since the FCA has assumed responsibility for the regulation of consumer credit activities.
<http://www.legislation.gov.uk/ukpga/1974/39>
- The FCA handbook
<https://www.handbook.fca.org.uk/handbook/>
- The FCA's Policy Statement PS14/13
<http://www.fca.org.uk/static/documents/policy-statements/ps14-03.pdf>