

Chapter 3

Financial promotions and communications with customers

3.6 Financial promotions about credit agreements secured on land

Application

3.6.1 **R** This section applies:

- (1) to a *financial promotion* in relation to *consumer credit lending* in relation to *regulated credit agreements* secured on *land*; and
- (2) to a *financial promotion* in relation to *credit broking* in relation to *regulated credit agreements* secured on *land*;

and in both cases other than *financial promotions* to the extent that they relate to *qualifying credit*.

Definitions

3.6.2 **R** In this section, for a *financial promotion* relating to *credit* to be provided under a *credit agreement* "relevant date" means:

- (1) in a case where a date is specified in or determinable under the agreement at the date of its making as that on which the *customer* is entitled to require provision of anything the subject of the agreement, the earliest such date; and
- (2) in any other case, the date of the making of the agreement.

Prohibition on financial promotion where goods etc not sold for cash

3.6.3 **R** A *financial promotion* must not be *communicated* where it indicates a *firm* is willing to provide *credit* under a regulated *restricted-use credit agreement* secured on *land* relating to *goods* or *services* to be supplied by any *person*, when at the time the *financial promotion* is *communicated*, the *firm* or any *supplier* under such an agreement does not hold itself out as prepared to sell the *goods* or provide the *services* (as the case may be) for cash.

[Note: section 45 of CCA]

Content of financial promotions

3.6.4 **R** (1) Where a *financial promotion* includes any of the amounts referred to in (5) to (7) of **CONC 3.6.10 R** the promotion must:

- (a) include all the other items of information (other than any item inapplicable to the particular case) listed in ■ CONC 3.6.10 R; and
- (b) specify a postal address at which the *person* making the promotion may be contacted, except in the case of a *financial promotion*:
 - (i) *communicated* by means of television or radio broadcast;
 - (ii) in any form on the premises of a *lender* or *dealer* (other than a *financial promotion* in writing which *customers* are intended to take away);
 - (iii) which includes the name and address of a *dealer*; or
 - (iv) which includes the name and a postal address of a *credit broker*.

[Note: regulation 4(1) of CCAR 2004]

- (2) The items of information listed in ■ CONC 3.6.10 R must be given equal prominence and must be shown together as a whole.

[Note: regulation 4(2) of CCAR 2004]

- (3) Any information in any book, catalogue, leaflet or other document which is likely to vary from time to time must be taken for the purpose of (2) to be shown together as a whole if:
 - (a) it is set out together as a whole in a separate document issued with the book, catalogue, leaflet or other document;
 - (b) the other information in the *financial promotion* is shown together as a whole in the book, catalogue, leaflet or other document; and
 - (c) the book, catalogue, leaflet or other document identifies the separate document in which the information likely to vary is set out.

[Note: regulation 4(3) of CCAR 2004]

Statements in relation to security

3.6.5

R

- (1) Where a *financial promotion* concerns a facility for which *security* is or may be required, the promotion must:
 - (a) state that *security* is or may be required; and
 - (b) specify the nature of the *security*.

[Note: regulation 7(1) of CCAR 2004]

- (2) Where, in the case of a *financial promotion*, the *security* comprises or may comprise a mortgage or charge on a property used by the *customer* as a dwelling (whether or not the *customer's* primary residence):
 - (a) except where (c) applies, the *financial promotion* must contain a warning in the form:

“YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT KEEP UP REPAYMENTS ON A MORTGAGE OR ANY OTHER DEBT SECURED ON IT”;

- (b) where the *financial promotion* indicates that *credit* is available for the payment of debts due to other *lenders*, the warning in (a) must be preceded by the words:

“THINK CAREFULLY BEFORE SECURING OTHER DEBTS AGAINST YOUR HOME.”

- (c) where the *credit agreement* is or would be an agreement of a kind described in (3), the *financial promotion* must contain a warning in the form:

“CHECK THAT THIS MORTGAGE WILL MEET YOUR NEEDS IF YOU WANT TO MOVE OR SELL YOUR HOME OR YOU WANT YOUR FAMILY TO INHERIT IT. IF YOU ARE IN ANY DOUBT, SEEK INDEPENDENT ADVICE”.

[Note: regulation 7(2) of CCAR 2004]

- (3) The kinds of agreement in (2)(c) are:

- (a) any *credit agreement* under which no instalment *repayments* secured by the mortgage on the *customer's* home, and no payment of interest on the *credit* (other than interest charged when all or part of the *credit* is repaid voluntarily by the *customer*), are due or capable of becoming due while the *customer* continues to occupy the mortgaged *land* as the *customer's* main residence; and
- (b) any *credit agreement*:
- (i) which is secured by a mortgage which the *lender* cannot enforce by taking possession of or selling (or concurring with any other *person* in selling) the mortgaged *land* or any part of it while the *customer* continues to occupy it as the *customer's* main residence; and
 - (ii) under which, although interest payments may become due, no full or partial repayment of the *credit* secured by the mortgage is due or capable of becoming due while the *customer* continues to occupy the mortgaged *land* as the *customer's* main residence.

[Note: regulation 7(3) of CCAR 2004]

- (4) Where a *financial promotion* is for a mortgage or other loan secured on property and *repayments* are to be made in a currency other than sterling, the *financial promotion* must contain a warning in the form:

“CHANGES IN THE EXCHANGE RATE MAY INCREASE THE STERLING EQUIVALENT OF YOUR DEBT”.

[Note: regulation 7(4) of CCAR 2004]

- (5) The warnings provided for in (2) and (4):

- (a) must be given greater prominence in a *financial promotion* than is given to:
- (i) any rate of charge other than the *typical APR*; and
 - (ii) any indication or incentive of a kind referred to in ■ CONC 3.6.6R (1); and

- (b) must be given no less prominence in a *financial promotion* than is given to any of the items listed in ■ CONC 3.6.10 R that appear in the *financial promotion*.

[Note: regulation 7(6) of CCAR 2004]

- (6) Paragraphs (2), (3), (4) and (5) do not apply in the case of a *financial promotion* which:
 - (a) is communicated by means of television or radio broadcast in the course of programming the primary purpose of which is not financial promotion; or
 - (b) is communicated by exhibition of a film (other than exhibition by television broadcast); or
 - (c) contains only the name of the *firm communicating the financial promotion*.

[Note: regulation 7(8) of CCAR 2004]

Annual percentage rate of charge

3.6.6

R

- (1) A *financial promotion* must specify the *typical APR* if the promotion:
 - (a) specifies any other rate of charge;
 - (b) includes any of the items of information listed in ■ CONC 3.6.10R (5) to (7);
 - (c) indicates in any way, whether expressly or by implication, including by means of the name given to a business or of an address used by a business for the purposes of *electronic communication*, that:
 - (i) *credit* is available to *persons* who might otherwise consider their access to *credit* restricted; or
 - (ii) any of the terms on which *credit* is available is more favourable (either for a limited period or generally) than corresponding terms applied in any other case or by any *other lender*; or
 - (iii) the way in which the *credit* is offered is more favourable (either for a limited period or generally) than corresponding ways used in any other case or by any *other lender*; or
 - (d) includes any incentive (including but not limited to, gifts, special offers, discounts and rewards) to apply for *credit* or to enter into an agreement under which *credit* is provided;

[Note: regulation 8(1) of CCAR 2004]

 - (e) includes an incentive (in the form of a statement about the speed or ease of, processing, considering or granting an application or of making funds available) to apply for *credit* or to enter into an agreement under which *credit* is provided.
- (2) A *financial promotion* may not indicate the range of *APRs* charged where *credit* is provided otherwise than by specifying, with equal prominence, both:

- (a) the *APR* which the *firm communicating or approving the financial promotion* reasonably expects, at the date on which the promotion is *communicated or approved*, would be the lowest *APR* at which *credit* would be provided under not less than 10% of the agreements which will be entered into as a result of that promotion; and
- (b) the *APR* which the *firm communicating or approving the financial promotion* reasonably expects, at that date, would be the highest *APR* at which *credit* would be provided under any of the agreements which will be entered into as a result of that promotion.

[Note: regulation 8(2) of *CCAR 2004*]

- (3) An *APR* must be shown as “%APR”.

[Note: regulation 8(3) of *CCAR 2004*]

- (4) Where an *APR* is subject to change it must be accompanied by the word “variable”.

[Note: regulation 8(4) of *CCAR 2004*]

- (5) The *typical APR* in a *financial promotion* must be:

- (a) accompanied by the word “typical”;
- (b) presented together with any of the items listed in ■ CONC 3.6.10 R that are included in the promotion;
- (c) given greater prominence in the promotion than:
 - (i) any other rate of charge;
 - (ii) any items listed in ■ CONC 3.6.10 R; and
 - (iii) any indication or incentive of a kind referred to in (1); and
- (d) in the case of a promotion in printed or electronic form which includes any of the items listed in ■ CONC 3.6.10 R, shown in characters at least one and a half times the size of the characters in which those items appear.

[Note: regulation 8(5) of *CCAR 2004*]

- (6) In the case of a *financial promotion* relating to a *borrower-lender agreement* enabling the *customer* to overdraw on a current account under which the *lender* is the Bank of England or an *authorised person with permission* to accept deposits, there may be substituted for the *typical APR* a reference to the statement of:

- (a) a rate, expressed to be a rate of interest, being a rate determined as the rate of the *total charge for credit* calculated on the assumption that only interest is included in the *total charge for credit*, and
- (b) the nature and amount of any other charge included in the *total charge for credit*.

[Note: regulation 8(6) of *CCAR 2004*]

3.6.7 **G** Whether or not a reference to speed or ease in **■ CONC 3.6.6R (1)(e)** constitutes an incentive to apply for *credit* or enter into an agreement under which *credit* is provided would depend upon the circumstances, including whether it is likely to persuade or influence a *customer* to take those steps or is merely a factual statement about the product or service.

Restricted expressions

3.6.8 **R** (1) A *financial promotion* must not include:

- (a) the word “overdraft” or any similar expression as describing any agreement for *running-account credit*, except where the agreement enables a *customer* to overdraw on a current account;
- (b) the expression “interest free” or any similar expression indicating that a *customer* is liable to pay no greater amount in respect of a transaction financed by *credit* than he would be liable to pay as a cash purchaser for the like transaction, except where the *total amount payable* by the *customer* does not exceed the *cash price*;
- (c) the expression “no deposit” or any similar expression, except where no *advance payments* are to be made;
- (d) the expression “loan guaranteed” or “pre-approved” or “no credit checks” or any similar expression, except where the agreement is free of any conditions regarding the credit status of the *customer*;
- (e) the expression “gift”, “present” or any similar expression, except where there are no conditions which would require the *customer* to repay the *credit* or return the item that is the subject of the claim.

[Note: regulation 9 of CCAR 2004]

(2) A *financial promotion* must not include for a *repayment of credit* the expression “weekly equivalent” or any expression to like effect or any expression of any other periodical equivalent, unless weekly repayments or the other periodical payments are provided for under the agreement.

(3) In this *rule* “cash purchaser” means a *person* who for money consideration acquires *goods, land* or other things or is provided with services, under a transaction which is not financed by *credit*.

Total charge for credit and any APR: assumptions about running account credit

3.6.9 **R** (1) In the case of a *financial promotion* about *running-account credit*, the following assumptions have effect for the purpose of calculating the *total charge for credit* and any *APR*, notwithstanding the terms of the transaction advertised and in place of any assumptions in **■ CONC App 1.1.11 R** to **■ CONC App 1.1.18 R** that might otherwise apply:

- (a) the amount of the *credit* to be provided must be taken to be £1,500 or, in a case where *credit* is to be provided subject to a *credit limit* of less than £1,500, an amount equal to that limit;
- (b) it must be assumed that the *credit* is provided for a period of one year beginning with the relevant date;

- (c) it must be assumed that the *credit* is provided in full on the relevant date;
- (d) where the rate of interest will change at a time provided in the transaction within a period of three years beginning with the relevant date, the rate must be taken to be the highest rate at any time obtaining under the transaction in that period;
- (e) where the agreement provides *credit* to finance the purchase of *goods, services, land* or other things and also provides one or more of:
 - (i) cash loans;
 - (ii) *credit* to refinance existing indebtedness of the *customer*, whether to the *lender* or another *person*; and
 - (iii) *credit* for any other purpose;and either or both different rates of interest and different charges are payable for the *credit* provided for all or some of these purposes, it must be assumed that the rate of interest and charges payable for the whole of the *credit* are those applicable to the provision of *credit* for the purchase of *goods, services, land* or other things; and
- (f) it must be assumed that the *credit* is repaid:
 - (i) in twelve equal instalments; and
 - (ii) at *monthly* intervals, beginning one *month* after the relevant date.

[Note: paragraph 1 of schedule 1 to CCAR 2004]

Total charge for credit and any APR: tolerances in disclosure of an APR

- (2) For the purposes of ■ CONC 3.6, it is sufficient compliance with the requirement to show an *APR* if there is included in the *financial promotion*:
 - (a) a rate which exceeds the *APR* by not more than one; or
 - (b) a rate which falls short of the *APR* by not more than 0.1;or in a case to which (3) or (4) applies, a rate determined in accordance with those sub-paragraphs or whichever of them applies to that case.

[Note: paragraph 2 of schedule 1 to CCAR 2004]

Total charge for credit and any APR: tolerance where repayments are nearly equal

- (3) In the case of an agreement under which all *repayments* but one are equal and that one *repayment* does not differ from any other *repayment* by more whole pence than there are *repayments* of *credit*, there may be included in a *financial promotion* about the agreement a rate found under ■ CONC App 1.1.9 R as if that one *repayment* were equal to the other *repayments* to be made under the agreement.

[Note: paragraph 3 of schedule 1 to CCAR 2004]

Total charge for credit and any APR: tolerance of interval between relevant date and first repayment

- (4) In the case of an agreement under which:
 - (a) three or more *repayments* are to be made at equal intervals; and
 - (b) the interval between the relevant date and the first *repayment* is greater than the interval between the *repayments*;a *financial promotion* about the agreement may include a rate found under ■ CONC App 1.1.9 R as if the interval between the relevant date and the first *repayment* were shortened so as to be equal to the interval between *repayments*.

[Note: paragraph 4 of schedule 1 to CCAR 2004]

Information that CONC 3.6.4R(1) may require to be included in a financial promotion

3.6.10

R

- (1) The amount of *credit* which may be provided under a *credit agreement* or an indication of one or both of the maximum amount and the minimum amount of *credit* which may be provided.

[Note: paragraph 1 of schedule 2 to CCAR 2004]

Deposit of money in an account

- (2) A statement of any requirement to place on deposit any sum of money in any account with any *person*.

[Note: paragraph 2 of schedule 2 to CCAR 2004]

Cash price

- (3) In the case of a *financial promotion* about *credit* to be provided under a *borrower-lender-supplier agreement*, where the *financial promotion* specifies *goods, services, land* or other things having a particular *cash price*, the acquisition of which from an identified *dealer* may be financed by the *credit*, the *cash price* of such *goods, services, land* or other things.

[Note: paragraph 3 of schedule 2 to CCAR 2004]

Advance payment

- (4) A statement as to whether an *advance payment* is required and, if so, the amount or minimum amount of the payment expressed as a sum of money or a percentage.

[Note: paragraph 4 of schedule 2 to CCAR 2004]

Frequency, number and amount of repayments of credit

- (5) (a) In the case of a *financial promotion* about *running-account credit*, a statement of the frequency of the *repayments* of *credit* under the transaction and of the amount of each *repayment* stating whether it is a fixed or minimum amount, or a statement indicating the manner in which the amount will be determined.

- (b) In the case of other *financial promotions*, a statement of the frequency, number and amounts of *repayments of credit*.
- (c) The amount of any *repayment* under this sub-paragraph may be expressed as a sum of money or as a specified proportion of a specified amount (including the amount outstanding from time to time).

[Note: paragraph 5 of schedule 2 to CCAR 2004]

Other payments and charges

- (6) (a) Subject to (b) and (c), a statement indicating the description and amount of any other payments and charges which may be payable under the agreement promoted in the *financial promotion*.
- (b) Where the liability of the *customer* to make any payment cannot be ascertained at the date the *financial promotion* is *communicated*, a statement indicating the description of the payment in question and the circumstances in which the liability to make it will arise.
- (c) Paragraphs (a) and (b) do not apply to any charge payable under the transaction to the *lender* or any other *person* on behalf of the *lender* upon failure by the *customer* or a relative of the *customer* to do or refrain from doing anything which the *customer* is required to do or refrain from doing, as the case may be.

[Note: paragraph 6 of schedule 2 to CCAR 2004]

Total amount payable by the customer

- (7) In the case of a *financial promotion* about *fixed-sum credit* to be provided under a *credit agreement* which is repayable at specified intervals or in specified amounts and other than cases under which the sum of the payments within (a) to (c) is not greater than the *cash price* referred to in (3), the *total amount payable*, being the total of:
 - (a) *advance payments*;
 - (b) the amount of *credit* repayable by the *customer*, and
 - (c) the amount of the *total charge for credit*.

[Note: paragraph 7 of schedule 2 to CCAR 2004]