



MOTOR TRADE NEWSLETTER

August 2013



■ Consumer credit changes

All licensed credit businesses should have received a joint letter dated 15 July 2013 from the Office of Fair Trading (OFT) and the Financial Conduct Authority (FCA). This letter gives notice of the forthcoming changes to the consumer credit regulation regime. The FCA will take over regulation of consumer credit from the OFT on 1 April 2014. From September 2013 current OFT licence holders will need to register with FCA for 'interim permission' to carry on regulated activities from 1 April 2014. See also FCA frequently asked questions.

■ Withdrawal from a Hire Purchase Agreement

A motor dealership approached us for advice after one of their recent customers came back to the garage demanding the dealer take a used car back the customer no longer wanted. In this case the car was supplied to the customer on a hire purchase agreement around two weeks earlier. The law states that when a consumer enters into a hire purchase (or PCP) agreement then they have 14 days after receiving a copy of the final agreement paperwork to withdraw from that credit agreement. The customer in this case informed the finance company on the 14th day after the credit agreement was concluded that they wished to exercise their right of withdrawal from the finance. The customer then went to the dealership to return the car. The dealer then asked for our advice. In our advice we explained to the dealer that the consumer did indeed have the right to withdraw from the credit agreement, however because this was a 'hire purchase' agreement, the consumer was obliged to keep the car and to settle the outstanding finance on the car with the finance company. Legally the cancellation of the hire purchase agreement was between the customer and the finance company and not the motor dealer. The consumer had the right in this case to simply cancel the credit agreement and pay the finance company the outstanding balance. The law requires the consumer to pay back the finance within 30 days.

■ Online Car Finance Advertisements

Motor dealers creating their own credit advertisements online should be aware of the following court decision.

The Government issued guidance on online credit advertisements (www.tinyurl.com/webCCA74) in 2010. The guidance stated: “*clicking*” between items in order to view information **could** be permissible under the Advertisements Regulations, this would be subject to all the standard information being equally accessible, together and more prominent than any other information concerning the cost of the credit or other APR triggers.” However, despite this guidance, in a 2012 court case [*Motor Depot Limited and Wilkinson v Kingston upon Hull City Council*] the appeal judge concluded that each web page of an internet advertisement constituted a separate advertisement and that any related web page in an advertisement which gave any credit information was also a separate credit advertisement. The judge emphasised that one of the purposes of the Credit Advertising Regulations is to have the “*information together so that the potential consumer is not drawn in to an advertisement as the result of it headlining a favourable feature, whilst concealing, until the consumer's interest has been secured, perhaps less favourable features of the terms of sale...the obligation is to provide the relevant information on each credit advertisement, and that obligation is not satisfied by putting it on some advertisements but not others*”.

This judgement makes clear that when a monthly payment figure or other ‘cost of the credit’ APR trigger is mentioned in a ‘credit advertisement’ then a full Representative example containing all the standard information should be visible on the same page.

■ Further information

See our website for further information on Trading Standards and specific motor trade guidance

- www.highland.gov.uk/motortrade