



Our Reference:

20 February 2009

Dear

Claims Management Regulation – Marketing and Advertising Compliance

You may be aware that earlier this year the Ministry of Justice and the Office of Fair Trading issued a joint consumer alert due to concerns about marketing by businesses offering services in respect of unenforceable credit agreements. A copy of this consumer alert is available in the “For Consumers” section of our web site: www.claimsregulation.gov.uk.

Following this consumer alert the Unit has done a significant amount of work reviewing the websites and other advertising of businesses offering such services. This work has given rise to a number of concerns regarding the content of advertising in use and I enclose a guidance note that contains examples of the types of advertising that may be misleading to consumers.

I am sending you this guidance because I have concerns about the unenforceable credit agreement marketing on your website(s) as indicated below.

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The Conduct of Authorised Persons Rules 2007 place a specific obligation on authorised businesses to ensure their marketing and advertising is not misleading and complies with the CAP. You are required to comply with these rules as a condition of your authorisation. Please note that only the unenforceable credit agreement content of your website has been examined. Further guidance on general marketing is available on our website.

Please read the guidance note enclosed and review your website and other advertising to ensure it complies. Monitoring of unenforceable credit agreement advertising by the Unit will continue and action may follow where non-compliance is discovered, so if you do need further help or advice, or if you have any queries regarding the above, please contact the Unit.

In addition to the requirements under the Compensation Act 2006, the Consumer Credit Act 1974 requires companies who offer debt counselling/adjusting services to consumers to be licensed by the Office of Fair Trading. Businesses that are authorised by the Ministry of Justice to provide Claims Management Services will also need to be licensed under the Act if they engage in any debt counselling/adjusting activities, including the following:

- advising on how to restructure debts, how to alter debt repayments or how to achieve early resettlement of debts
- contacting creditors and/or negotiating with creditors, on behalf of the debtor, in order to make any of the above arrangements (whether that contact amounts to 'negotiation' or not)
- providing a facility for the debtor to make a single repayment which is then distributed on his behalf to his creditors

The Office of Fair Trading published Debt Management Guidance for licensees in December 2001. This guidance will apply to you if you hold a credit licence. There are key principles of the guidance that include not only that advertising must be accurate and not misleading, but also that licensees must act in the best interests of their customers. This means providing consumers with advice on the options for dealing with their debts as set out in the guidance.

For further information visit the Credit Licensing section of the OFT web site:

http://www.offt.gov.uk/advice_and_resources/resource_base/credit-licence/

Or telephone 08457 22 44 99.

I trust that the above guidance is clear. However, if you do have any queries or require further guidance then please contact us.

Yours sincerely

Claims Management Regulation Monitoring and Compliance Unit