



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

T +353 1 224 6000 F +353 1 671 6561

Bosca OP 559, Sráid an Dáma, Baile Átha Cliath 2, Éire.
PO Box No. 559 Dame Street, Dublin 2, Ireland.

www.centralbank.ie

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Review of Advertising Issues and related Disclosure Issues

Dear Sir or Madam

The Central Bank of Ireland actively monitors advertising by regulated firms to ensure compliance with the advertising requirements of the Consumer Protection Code (the Code). In addition, we consider issues referred to us from a number of sources including consumer complaints.

During 2010, we carried out a project to review the websites of regulated firms. While many of the findings relate to the websites of mortgage intermediaries, other issues identified relate more generally to all categories of regulated firms. The main issues identified during the course of this project and during our ongoing monitoring work are set out below.

These issues are being brought to the attention of all firms to ensure that advertising by all regulated firms is fair and not misleading and in compliance with relevant regulatory requirements. Firms should ensure that these issues are brought to the attention of all staff who are involved in the preparation and sign-off of advertisements for financial products and services. In addition, all firms are required to review their websites in view of the findings outlined in this letter.

This letter should be read in conjunction with our letters issued to firms on 12 June 2007 and 23 July 2008. Copies of these letters are available to view on our website at www.centralbank.ie. Failure to comply with the provisions of the Code can result in matters being escalated through the Administrative Sanctions Process.

Exaggerating the number of appointments held

Chapter 7 (1) of the Code requires that *'a regulated entity must ensure that all its advertisements are fair and not misleading'*. Our examination showed that a number of intermediaries claimed to have appointments with *all the lenders in the market* which was not the case. The Central Bank considers it misleading where the number of appointments held by an intermediary is exaggerated in their advertising.

No proof of income required

Chapter 4 (14) of the Code requires that *‘before a mortgage can be drawn down, a mortgage intermediary must submit to a mortgage lender a signed declaration that such mortgage intermediary has had sight of all original supporting documentation including bank statements, P60/certificate of earnings and other supporting documentation evidencing the consumer’s identity and ability to repay’*. Our examination showed that many firms websites offered their services indicating that a prospective mortgagee would not have to provide proof of income. The statement ‘no proof of income’ in advertisements clearly breaches this requirement.

Advertising tracker/100% mortgages

Chapter 7 (1) of the Code requires that *‘a regulated entity must ensure that all its advertisements are fair and not misleading’*. In addition, Chapter 7 (2) requires that *‘a regulated entity must not influence a consumer’s attitude to the advertised product or service or the regulated entity either by inaccuracy, ambiguity, exaggeration or omission’*. Strict criteria apply in order to qualify for a 100% mortgage, and tracker mortgages are not currently available to new mortgage applicants. In order to comply with these provisions, all firms should review website material on an ongoing basis to ensure that this information continues to be accurate and up to date.

Absence of warnings

In addition to the specific advertising rules of the Code, Chapter 2 (6) of the Code requires that *‘a regulated entity must ensure that all warnings required by the Code are prominent, i.e. they must be in a box, in bold type and of a font size that is larger than the normal font size used throughout the document or advertisement’*. The relevant warnings can be found in Chapter 7 of the Code. With this in mind, the Central Bank does not consider it sufficient to have warning notices included in the small print of advertisements.

Use of the Central Bank of Ireland logo

The re-use of Public Sector Information page on our website states that a firm must not reproduce any crest, logo or mark of the State. This includes the Central Bank of Ireland and therefore, the use of the logo of the Central Bank of Ireland in advertising is prohibited.

Regulatory disclosure

The Code requires that the regulatory disclosure statement for all firms be included on the homepage of your website i.e. *“Full legal name or regulated entity (and trading name, if applicable) is regulated by the Central Bank of Ireland”*. It is not necessary to include this disclosure in relation to sponsorship material; however, where a specific product or service is being endorsed the disclosure must always be used.

Furthermore, we expect firms to attach the following disclaimer on all communications (both oral and written) from an authorised firm when providing non-regulated products and services *“Please note that the provision of this product or service does not require*

licensing, authorisation, or registration with the Central Bank of Ireland and, as a result, it is not covered by the Central Bank's requirements designed to protect consumers or by a statutory compensation scheme".

Interest Rates on Savings and Deposit Accounts

Chapter 7 26(b) of the Code requires that *'where an interest rate for a savings or deposit account is displayed in an advertisement, it must clearly state the relevant interest rate for each term quoted together with the equivalent annual rate for each rate quoted, and each rate should be given equal prominence'*. We found that a number of firms were not complying with this requirement.

Case Study

A number of deposit takers were advertising varying Fixed Term Savings Accounts quoting the AER's but not including the rate for the actual term of the product in the advertisement. For example, advertising a 6 month fixed term savings account with an AER of 3%, but not including the 1.5% (approx) rate applicable for the six month term. Another example would be advertising a 24 month fixed term savings account with an AER of 3.25%, but not including the 6.5% (approx) rate applicable for the 24 month period.

Provision of Key information

Chapter 7 (7) of the Code requires that *'warnings and product specific information must be clear and must not be obscured or disguised in any way by the content, design or format of the advertisement'*. We noted that key information was not included in the main body of many advertisements. In addition, we noted that many firms were not consistent with regard to the information being provided in the various advertising formats, e.g., a radio advertisement containing less information than a newspaper advertisement.

Trading under a name which is not registered

Section 116 (2) of the Consumer Credit Act 1995 requires that *'a holder of an authorisation shall only engage in the business of being a mortgage intermediary in the name specified in the holder's authorisation'*. Our examination showed that some mortgage intermediaries were not complying with this section of the Consumer Credit Act.

Debt Consolidation Housing Loans

Section 135 (1) of the Consumer Credit Act, 1995 lists the necessary requirements when advertising housing loans. In this regard, the Office of the Director of Consumer Affairs and the Consumer Director of the Financial Regulator issued Directions under Section 135 of the Consumer Credit Act, 1995 on 24 March 1997 and 1 January 2007.

Both of these Directions can be found at www.centralbank.ie and must be complied with when advertising residential mortgage credit and debt consolidation housing loans.

Controls and Checks for Monitoring Advertising Requirements

We would also like to remind firms that Chapter 1(4) of the Code provides that *'regulated entities have and employ effectively the resources and procedures, systems and control checks that are necessary for compliance with this Code'*. Furthermore, Chapter 2(57) of the Code provides that *'regulated entities must have adequate systems and controls in place to ensure compliance with the Code'*. These provisions apply equally to the advertising provisions. It is therefore important that controls and checks are put in place **before** any advertisement is published to ensure that the advertisement is accurate, up to date and compliant with the relevant advertising requirements.

As the Consumer Protection Code is currently under review, you should be aware that some of the Advertising Provisions may be subject to change following this process.

If you have any queries on the above, please contact my colleague, Ms. Toni McIntyre of this department at toni.mcintyre@centralbank.ie.

Yours sincerely



Sharon Donnery
Head of Consumer Protection Codes