



MORTGAGE & FINANCE ASSOCIATION OF AUSTRALIA

ADVERTISING GUIDELINES

VERSION: 10 MARCH 2013

Introduction

The purpose of these Advertising Guidelines is to assist MFAA members in framing their advertisements so they do not breach any laws or guidelines.

What's the source of the laws?

The main source of regulation is *Competition and Consumer Act 2010* (Cth) – (the CCA Act), the *Australian Securities and Investments Commission Act 2001* (Cth) – (the ASIC Act), and the *National Consumer Credit Protection Act 2009* (Cth) – (the NCCP Act). The guidance provided by ASIC in Regulatory Guide RG234 is also important.

The MFAA's Code of Practice also requires that members must ensure that their advertising is not false, misleading, deceptive, dishonest or likely to mislead or deceive.

Key obligations

The key obligations are to ensure that advertisements:

- are not misleading or deceptive when read as a whole;
- show the relevant Australian Credit Licence number and CAN in printed advertisements (best practice is also to display ACLs and ACNs on web-sites);
- which state an interest rate or repayment in relation to a loan regulated by the National Credit Code contain a comparison rate displayed equally prominently and also show the prescribed warning. (For more details of this requirement see the MFAA's 'Comparison Rate' module);
- do not claim that the advertiser is 'independent', 'impartial', or 'unbiased' unless the advertiser receives no commissions or other benefits from lenders. Possible alternative descriptors might be 'professional' or 'MFAA-accredited'.

It is extremely important that members continually review all advertising and marketing material to ensure that that material complies with relevant legislation. Advertising can be innovative, exciting and competitive; but it must also be honest, balanced and accurate.

Be warned! The penalties for misleading and deceptive advertising and other practices can be very costly.

Other guidance

Issue	Summary
Audience	<p>The target audience of an advertising campaign may be very different to the actual audience that receives the message. What matters is the understanding of the audience that actually receives the message.</p> <p>Members of that audience may be unsophisticated or have limited knowledge of the mortgage industry and its products and services. You must ensure that these people are not misled.</p>
Words to be careful of	<p><i>The 'best' deal</i></p> <p>It is impossible to demonstrate, at any point of time, in the large and competitive mortgage market that a deal is the 'best' deal. Advertising should avoid such terminology and similar expressions like 'cheapest' or 'lowest rates'. Possible alternatives could be - 'We help you find a loan suited to your needs from our panel of lenders'.</p>

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	<p>'Guaranteed'</p> <p>You should not use the word 'guaranteed' unless you are making a contractually binding promise, and, if so, you must make the precise terms of that promise clear.</p> <p>'Free'</p> <p>Is the service you are providing really free or are there other costs the consumer might incur or benefits they might be giving up?</p> <p>You may want to consider different terminology such as 'Our service to you is free but other fees may apply'.</p>
<p>Use of Charts, graphs, images, on-line calculators</p>	<p>Charts, graphs, images or on-line calculators, either by themselves or in combination with each other or with words, may create a misleading impression. You need to ensure that the likely audience will not obtain a misleading impression from the material as a whole. If a calculator or chart is based on assumptions, those assumptions should be stated, particularly if they differ from what the audience might assume.</p>
<p>Subject to conditions</p>	<p>Use of 'subject to conditions' and similar phrases is unlikely to protect you from misleading your audience if the terms and conditions of a loan being recommended are less favourable to the consumer than the advertising suggests. If an understanding of the terms and conditions is likely to change the customer's perception of the product or service you are presenting, you probably need to reconsider your advertising strategy.</p> <p>Where an attractive offer is subject to conditions that are likely to be unattractive from the consumer's perspective, those conditions should be presented as prominently as the offer itself.</p>
<p>Comparative Advertising</p>	<p>If you use comparative advertising, always ensure the claims being made about competitors' products and services, as well as your own, are 100% accurate and that relevant information is not omitted. Extreme caution must be exercised as competitors are most likely to complain!</p> <p>If you are making comparisons, make sure you are comparing 'apples with apples'.</p> <p>For instance, it is misleading to say that a line of credit or offset account product can be paid off more quickly than a standard product if this result can only be achieved by making larger or more frequent payments. If you suggest otherwise, you are not comparing 'apples with apples', and may find you have breached the misleading and deceptive conduct provisions.</p>
<p>Returns, features, benefits & risks</p>	<p>Advertisements should:</p> <ul style="list-style-type: none"> • give balanced information to enable consumers to understand the nature of the product or service being advertised; • give balanced message about returns, features, benefits and risks associated with the product; • not overstate potential benefits; and

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	<ul style="list-style-type: none"> not create unrealistic expectations.
Warnings, disclaimers, qualifications and fine print	<p>The contents of advertisements should not be inconsistent with warning, disclaimers, qualifications and any headline claims. Consumers should not need to go to another website or webpage to correct a misleading or deceptive headline claim.</p> <p>Warnings, disclaimers or qualifications are included in an advertisement should be in a form similar to the main body of the advertisement so that the consumer can understand the warning, disclaimer or qualification.</p>
Fees and Costs	<p>A realistic impression of overall level of fees and costs, including any direct fees or costs a consumer is likely to pay should be noted within the advertisement.</p>
Endorsements and testimonials	<p>Advertising should not falsely represent that a product or product issuer has an endorsement or approval that it does not have.</p>
Responsible Lending	<p>Advertisements should not state or imply that a credit product is suitable for a particular class of consumers unless the credit provider has actually assessed the suitability of the particular consumers targeted by the advertisement.</p> <p>Where a product may be suitable for an identified class of consumers, the advertisement should make clear that a consumer within that class may, qualify or find the product suitable.</p> <p>Terms such as 'conditions apply' or 'find out if you qualify' may not always be sufficient to warn consumers that the advertised product may not be suitable for them.</p>
Credit assistance	<p>Advertisements should be clear about the scope of credit assistance that will be provided to the consumer.</p>
Internet advertising	<p>Care should be taken about using a facility for a consumer to access additional information where an advertisement is on a third party site. Where a consumer views an advertisement on a third party site, the consumer will have less motivation to actually access additional information on the promoter's own website.</p>

This summary does not comprise legal advice and the MFAA accepts no responsibility for it.

Copies of the MFAA Advertising Guidelines are also available in traditional and modern Chinese.