



Financial Conduct Authority
CP19/28: Motor finance discretionary
commission models and consumer credit
commission disclosure

Response from:

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Response to Motor finance discretionary commission models and consumer credit commission disclosure

Bona-fides

BVRLA, the industry and its members

- Established in 1967, the British Vehicle Rental & Leasing Association (BVRLA) is the UK trade body for companies engaged in vehicle rental and leasing.
- BVRLA membership provides customers with the reassurance that the company they are dealing with adheres to the highest standards of professionalism and fairness.
- The association achieves this by maintaining industry standards and regulatory compliance via its mandatory codes of conduct, inspection programme and conciliation service. To support this work, the BVRLA shares information and promotes best practice through its extensive range of training and events.
- On behalf of its 950+ members, the BVRLA works with governments, public sector agencies, industry associations and key business influencers across a wide range of road transport, environmental, taxation, technology and finance-related issues.
- BVRLA members are responsible for a combined fleet of almost five million cars, vans and trucks, supporting around 465,900 jobs and contributing £49bn to the economy each year. For more information, please visit www.bvrla.co.uk.



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Introduction

The BVRLA welcomes the opportunity to comment on the FCA's plans to ban commission models that give motor finance brokers/dealers an incentive to raise customers' interest rates. It is also happy to provide feedback on proposed changes to the rules and guidance covering the way commission information is communicated to consumers.

We are pleased that the FCA has taken a positive approach in addressing the areas of concern raised by the motor finance review. Given the evidence from the review it seems sensible that the discretionary commission model is banned and we support the approach being taken.

Whilst we understand the need for minor amends on the commission disclosure, we still believe this is an area which causes confusion for firms. We think the FCA should consider a re-drafting of the rules on commission disclosure so it is very clear when the existence of commission needs to be disclosed, what counts as commission and how the obligation to disclose commission impacts different parts of the motor finance supply chain.

Consultation Questions

Question 1

Do you agree with our proposed ban on discretionary commission models in the motor finance market?

Yes. The evidence presented in the motor finance review demonstrates that this type of commission model can result in consumer detriment for credit products. The BVRLA agrees that banning this model will deliver a better customer experience, although further clarification is required in relation to the scope of the ban.

It appears the focus of the consultation is on introducing a ban on commission models where the amount received by the broker is linked to the interest rate charged. However, the proposed Handbook text widens the scope to cover any items included in the total charge for credit (e.g. administration fees or delivery fees) which the broker has the power to set or adjust.

Throughout the FCA's previous documents it has been clear that there were concerns over the link between the broker's ability to set the interest rate, and the potential consumer harm caused.

While the FCA has clearly made the case for banning discretionary commission models where a broker is incentivised to set the interest rate themselves, it is somewhat unexpected that the findings of the review have been extrapolated across all types of charges for credit, without supporting evidence. We would welcome clarity from the FCA on whether it intends to expand the ban to all types of charges for credit.

Because the leasing sector did not form part of the motor finance review, some of our members have raised concerns that an unlevel playing field could emerge. This could see some finance providers strictly following the wording of the new rules but using discretionary commissions with leasing products, while other providers remove discretionary commission models everywhere.

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Potentially there could be a situation whereby dealers and brokers are choosing a finance provider based upon the model they operate rather than what is best for the customer. This is clearly not the result that the ban is trying to achieve.

There is also potential that the scope of the ban could lead to dealers and brokers pushing customers towards leasing products because of the availability of discretionary commission, when the customer may have been better suited to a traditional credit sale product.

Question 2

Do you agree with a 3-month implementation period?

No. We appreciate that a longer implementation period could result in more customer harm in the short term, but we our members tell us that they would struggle to make the necessary changes with such a brief notice period. There are a number of tasks they need to undertake, including:

- System changes – Significant IT projects of this kind take months to plan, and there may be many other conflicting priorities.
- Contract changes – Funders will need to renegotiate contracts with their brokers and dealers, which can take time to implement.
- Training – It will take time to train and educate staff across the sector so they understand how any new commission structures will operate
- Communication – We and our members will need to communicate any changes to all parties in the supply chain and this will take time once the system and contract changes are made.

We would suggest a six-month implementation period as a minimum to give operators time to adjust.

It would also be sensible for the ban and the changes on the commission disclosure to be introduced at the same time to avoid customer confusion.

Question 3

Do you agree with our proposed commission disclosure clarifications?

We think that the current rules are misleading, as it isn't clear who is responsible in the supply chain for revealing the existence of commission and when the existence of commission has to be revealed. It is also unclear what type of commission has to be included. Is it just point of sale, transaction-based commission or does it include other types of commission/ payments made which could still affect the impartiality of the introducer?

We would recommend that the FCA revises its rules completely in this area to provide absolute clarity. We appreciate this would take primary legislation to provide the necessary clarity, but believe this would achieve the objective the FCA is looking for with commission disclosure.

There also appears to be differences between the consultation paper and the handbook text, regarding how customer and consumer. The consultation paper focusses on the impact to a "consumer", the proposed Handbook text switches the terminology to "customer".

The use of "customer" potentially expands the scope of the disclosure requirements to include regulated and unregulated commercial transactions (particularly in relation to credit broking), which would not be the case had "consumer" been used. In this respect, further clarification is required to understand the exact scope of the requirements.



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Additionally, although the FCA is proposing that the existence and nature of any commission or fee must be “prominently” disclosed to a customer in good time, it is unclear how this will be achieved. No guidance has been provided on how to ensure that the disclosure is sufficiently prominent or precise enough to be of value to the customer to meet the proposed requirements. There is a risk that if no further guidance is provided that disclosure will either not be prominent enough, and/or it will not adequately explain the nature of the commission, rendering it of no added value to a potential customer.

It is unclear what steps will be required of lenders to ensure compliance with CONC, and potentially places an even greater reliance on “contractual requirements”, on which the FCA has already indicated lenders are unduly reliant. Further clarification for lenders in this area is required.

Question 4

Do you agree our proposed commission disclosure clarifications should apply across all consumer credit markets?

Yes, we think a level playing field is needed in this area.

Question 5

Do you agree our proposed commission disclosure clarifications should take effect on the day the rules are made?

We would ask for the timeline for changes to commission disclosure, and timeline for remuneration changes to be aligned.

Question 6

Do you agree with our analysis of the costs and benefits of the proposals?

We think your analysis of the costs fails to take into account the significant IT systems changes that regulated firms will be required to make.

Closing Comments

We are grateful for the opportunity we had to contribute to this consultation. We trust that the comments provided by the BVRLA on behalf of its members are helpful. Should it be useful, we would be happy to provide any additional information, or have a follow-up meeting with relevant FCA colleagues.



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