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Australian Securities and Investments Commission
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Dear ASIC Consultation Team

**CONSULTATION PAPER 37 – PROPOSED UPDATE TO ASIC’S GUIDANCE ON
ADVERTISING FINANCIAL PRODUCTS AND SERVICES**

The Australian Finance Industry Association (AFIA) is the only peak body representing the entire finance industry in Australia¹. We appreciate the opportunity to respond to the Australian Securities and Investments Commission’s (ASICs) consultation on the proposed updates to the guidance on advertising financial products and services (the Guide).

We represent over 150 members, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia’s future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

In this submission, AFIA sets out thematic feedback in the form of high-level comments and detailed comments pertaining to specific paragraphs.

¹ [Australian Finance Industry Association \(afia.asn.au\)](http://afia.asn.au).
Australian Finance Industry Association

KEY RECOMMENDATIONS

AFIA welcomes ASIC's proposed updates to RG 234 but identifies several areas where clearer, more practical, and more current guidance is required. The recommendations focus on improving structural clarity, accommodating non-bank lending models, ensuring feasible application of Design and Distribution Obligations (DDO), and modernising the treatment of digital advertising and comparison rates. AFIA recommends:

- **Restructuring the guidance to separate AFSL, ACL and business-lending requirements.**
AFIA recommends ASIC clearly distinguish between the different regulatory regimes to avoid conflating consumer and business obligations and to improve usability.
- **Clarifying DDO expectations and the practicality of targeting advertising.**
AFIA recommends that ASIC refine expectations that ads be directed only to target-market consumers, noting this is impractical because credit advertising is broad in nature, restricts brand-awareness campaigns, and should not apply to business lending.
- **Expanding and modernising digital advertising guidance**
AFIA suggests ASIC include examples for platforms like TikTok and Instagram, address short-form content limitations, and clearly distinguish lifestyle influencers from finfluencers with guidance on lender liability.
- **Developing clearer guidance on comparison rate calculations**
AFIA requests ASIC work with industry to clarify how financed fees, ascertainable costs, and calculation components should be treated, as the proposed guidance is too generic for practical compliance.

HIGH-LEVEL COMMENTS

Greater structure for credit provider obligations: The Guide alternates between providing guidance for Australian Financial Services Licence (AFSL) holders and Australian Credit Licence (ACL) holders, which makes it difficult to navigate. Users often need to review the entire document to identify relevant sections. It is also important that consumer credit advertising requirements are not conflated with business lending – for example, reference to the National Credit Act should be to the *National Consumer Credit Protection Act 2009* as it applies to consumer credit only. Further care should be exercised with terminology about consumer and business customers given the different legislative requirements and levels of sophistication between these two markets. Ideally, the Guide should be structured to clearly separate requirements for AFSL holders, ACL holders, and business lenders (which are not required to hold either licence) and there should be a section on applicable common advertising obligations.

Balanced messaging and prominent disclosure: While ASIC expects balanced messaging and prominent disclosure, these terms are not defined and there is no specific guidance on what is expected. As currently worded, the requirements are subjective and therefore subject to retrospectivity. Examples

showing font size ratio, placement of text, expectations by different mediums, body copy and disclaimer requirements would be helpful.

Design and Distribution Obligations: The Guide could integrate DDO and Target Market Determination (TMD) requirements more cohesively, ensuring these obligations are clearly linked and consistently applied.

In several paragraphs, the Guide references advertisements to be directed at the target audience (Paragraphs 31, 105, 124-126, 127, 129, 132, 149), the combined effect of which could be to restrict the ability to advertise broadly.

- The Guide assumes that the target consumers can be identified and targeted (quarantined) from within in the broader population. This is not a practical assumption; for example, how is a credit provider offering car loans to know which consumers are considering purchasing a car with credit and to advertise only to the target market.
- Requiring promoters to target only consumers for whom the product is appropriate and avoiding broader campaigns is impractical, particularly when the product is available to a broad customer base and only a narrow group might not fit within the target market
- These requirements do not consider that broader advertising campaigns also serve to create brand awareness for credit providers amongst the broader consumer market. A consumer may not be in the market for a car loan when the advertisement is running, but the advertisement may aid their future recall of the credit provider when they are in the market for a car loan.

The obligation to “do their best” to limit advertising to a narrow audience (paragraph 129) significantly reduces the ability to use traditional marketing and advertising channels in favour of social media and micro marketing. Further, the requirement that all advertising statements about suitability align with the product’s Target Market Determination (paragraph 126) imposes a compliance burden that discourages general messaging and forces highly tailored content.

Together, these measures constrain competition and flexibility in advertising strategy and imply a *de facto* restriction on broad promotional activity. Importantly, business lending is exempted from TMD requirements (see regulation 7.8A.20(9)(b) of the *Corporations Regulations 2001*), therefore care should also be applied to limit the application of target market concepts in this Guide in relation to advertising to business customers where there is no legislative requirement.

Previous Regulatory Powers section: The removal of Section D, ‘Our Regulatory Powers,’ is a concern. This section previously provided a detailed summary of ASIC’s enforcement powers and clearly linked them to the relevant legislative provisions. In the revised RG, this content has been replaced with a general reference to Information Sheet 151 outlining ASIC’s approach to enforcement. The original section offered valuable practical guidance and supported forming an informed or preliminary view when required.

AI in marketing: The Guide would benefit from an inclusion of guidance on the use of AI in finance marketing generally (e.g., in chat boxes) and the extent to which a credit provider may be held liable.

COMMENTS PERTAINING TO SPECIFIC PARAGRAPHS

1. Fees and costs (paragraphs 42-61)

Paragraph 43 states that advertisements must not claim only one fee applies if additional costs exist. If fees are mentioned, the ad should clearly state whether other costs also apply. However, there are some costs that are not ascertainable at the point of taking out the credit because they rely on a trigger, such as default costs which are common in all credit contracts. By way of example, one AFIA member offers a completely fee free credit product for the life of the credit contract. However, in the event of a customer default, where the credit provider incurs costs as a direct result of the default, those costs will be passed onto the customer.

2. Comparison Rates (paragraphs 55-61)

This section of the Guide is generic and provides limited guidance on calculation of comparison rates; we note also the generic nature of **Example 38**. Specifically, this section does not provide a framework which reflects the nuance of whether the prescribed rate per Part 7.8 of the National Consumer Credit Protection Regulations 2010 (NCCPR) is appropriate. In particular, the Guide is silent on ascertain-ability; whether fees that are always financed can be taken to be already accounted for in the Aj component or whether they need to be added separately to the Aj or Cj component of the calculator set out in NCCPR.

Additionally, the National Credit Code (s161) requires the credit provider to choose a designated amount and term in calculating the comparison rate. In some instances, the product offering amount may align to a designated amount², however the typical term may not align (or vice versa). It would be useful for ASIC to specify, in such circumstances, whether the loan designated term or the designated loan amount ought to be the anchoring designated feature in the comparison rate calculation.

AFIA invites ASIC to work with industry to develop an accepted approach to calculating comparison rate.

3. Advertisements target audience (paragraphs 124-137)

Further to the comments in the preceding section:

Paragraph 125, Example 54 states “*These advertisements are often targeted to consumers who may be credit-impaired or reliant on welfare benefits. These advertisements may be misleading if the advertised interest is not available to members of that target audience.*” Respectfully, in AFIA’s view, this statement is incorrect and inconsistent with member practices. Whilst credit is advertised broadly to the market issuance of credit is subject to credit eligibility, responsible lending obligations and from AFIA’s 2026 Finance Industry Code of Practice. AFIA requests ASIC reconsider the focus of this example.

² As prescribed in Regulation 97 of the *National Consumer Credit Protection Regulation 2010*

Paragraph 129 states if a product is suitable only for a limited audience due to its features or complexity, promoters should try to ensure advertisements target that group rather than a broader audience. It would be helpful for ASIC to provide a sense of what it means to ‘do their best’.

Paragraph 131 states that if credit assessments are “carried out appropriately, these inquiries may take some time, and in most cases are likely to include inquiries about a consumer’s credit history.” This paragraph also implies that ASIC does not see fast approval processes as being done properly. AFIA reminds ASIC of the progress made in risk assessment practices which does enable credit providers to form credible and accurate views of the credit worthiness of an application.

AFIA’s ‘Residential Mortgage Non-bank Lenders Report, shows that residential mortgage NBL arrears profile is comparable to that of the major banks, with a slightly higher share in early-stage arrears (0.67% vs. majors at 0.58%) and a lower share in 90+ day arrears/non-performing (0.81% vs. majors at 1.10%), reflecting responsible lending practices³.

We are concerned that this paragraph is stated in a way that implies that recent credit scoring innovations are not as robust as old methods. AFIA strongly recommends ASIC reconsider the wording of this paragraph.

Paragraph 133 states *‘the use of 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, or made available to them, depending on the nature of the product and the distribution of the advertising campaign.*

To reach the market through mass marketing or social media advertising credit providers are constrained by time and space. In the case of social media, platform limitations are imposed by the platform provider; advertisers do not have market power to drive change on these platforms. Further, in respect to examples 56 and 57, it would be helpful if ASIC were to expand them to include examples of appropriately worded consumer warnings given ASIC considers ‘conditions apply’ and ‘find out if you qualify’ may be insufficient.

4. Distribution channels

Paragraphs 134 and 135 require particular care to be taken “when presenting advertisements for products that can be acquired directly from the issuer rather than through an adviser, broker or intermediary”. We would appreciate further context regarding the specific risk ASIC is trying to mitigate or highlight.

³ [AFIA, 2025, Non Bank Lenders Report](#)

5. Internet Advertising (Paragraphs 161-169)

Paragraphs 161-168 in addition to ASIC's expectations for online ads, AFIA recommends ASIC could provide further guidance and examples on its expectations for how these advertising channels are to be used to reach the target audiences (for example on TikTok, Instagram, Facebook and the like). Further, the guidance is focussed on long form advertisements. The requirement for adequate risk disclosure may not be feasible for short form ads such as reels, stories, or posts. AFIA suggests further guidance be provided in respect to short form ads.

Paragraph 164: It appears that in this paragraph ASIC is suggesting that promoters ought not advertise on third-party sites or platforms (presumably sites such as Facebook, Google, Instagram, brokers, aggregators etc.) because consumers are not motivated to look at advertising that may interrupt their online activity. AFIA requests clarification of the intention of this paragraph. If AFIA's interpretation is correct, we request to understand the basis on which such a conclusion has been made and the risk this paragraph is mitigating.

Paragraph 169: AFIA notes that there is segmentation amongst social media influencers. Not all social media influencers are 'influencers'; many (if not most) are lifestyle influencers (for example travel influencers, fitness influencers, 'mum' influencers).

From time to time, lifestyle influencers may refer to financial products, such as credit cards. As an example, on a travel reel, a reference may be to the name of a credit card without making a recommendation; the comments associated with the reel may include a link to the website of the relevant financial institution housing the credit card information along with a reference that the influencer's mention is a paid mention.

The primary focus of lifestyle influencers is not finance but rather their area of specialisation (fitness, cooking, sewing, travel, raising a family etc). It would be a stretch to define these influencers as 'influencers' (who are required to hold a licence). The wording of paragraph 169 assumes that all social media influencers are finfluencers, and this assumption is replicated in Information Sheet 269. AFIA strongly recommends multiple examples be included in the Guidance to clearly delineate finfluencers from lifestyle influencers, especially highlighting the point at which a lifestyle influencer is deemed a finfluencer. An additional clarification is on the extent to which a credit provider may be liable for influencer advertising.

6. Outdoor advertising (paragraphs 170-172)

Paragraphs 170-172: ASIC states that promoters will need to take into account the conditions in which an outdoor advertisement will be viewed and consider the overall impression of the advertisement being misleading and deceptive. AFIA requests ASIC provide further guidance, including with examples to demonstrate its expectations for when it will consider such an advertisement to be misleading and deceptive.

Paragraph 172 states that outdoor advertising may be better suited to promoting brand or product recognition, rather than conveying more complex information about a product. Again AFIA requests ASIC provide further guidance, including examples, on complex information about a product that is not suited to outdoor advertising.

7. Use of certain terms and phrases (paragraphs 112 and 113)

AFIA suggests expanding on the list provided if ASIC has a view on a definitive list of terms and phrases that it considers inappropriate for use in consumer advertising. Such as list would provide greater clarity.

8. Returns, features and benefits (paragraph 19)

AFIA notes two typographical errors identified in example 6 with our corrections in red:

“ASIC took court action against a credit repair firm after it claimed to be able to ‘clean’ a consumer’s credit history by removing negative listings,’

CLOSING COMMENTS

AFIA appreciates the opportunity to comment on ASIC’s proposed updates to RG 234 and remains committed to supporting guidance that is clear, practical and reflective of contemporary lending and advertising practices. Our recommendations seek to ensure the framework appropriately differentiates between regulatory regimes, provides feasible expectations under DDO, and offers updated guidance for digital advertising and comparison rate calculations.

AFIA invites and welcomes engagement with ASIC to refine these elements and to help deliver effective, proportionate and future-focused standards that benefit consumers, industry and regulators alike. Should you wish to discuss our submission, please contact me at [REDACTED]

Yours sincerely

[REDACTED]