

# MEMORANDUM

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To: Anthony Apponyi  
From: Meryl Morgan  
Date: 12 February 2007  
Re: Advertising

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## **1. Need to comply with the Consumer Credit Act ("CCA") Legislation**

1.1 As previously advised it is necessary for CHAIN MENDER<sup>®</sup> to comply with relevant CCA advertising legislation from its launch. Where the estate agents and the distributor provide advertising literature in which they refer to Chain Mender Limited providing credit, Chain Mender Limited will be the "advertiser" for compliance with the CCA legislation. If the estate agents include in CHAIN MENDER<sup>®</sup> literature their ability to introduce potential borrowers to CHAIN MENDER<sup>®</sup> then the estate agents will also be deemed to be advertising their credit brokerage service. I assume that the estate agents will not be advertising their credit brokerage services, and that any CHAIN MENDER<sup>®</sup> literature which you provide to the estate agents and the distributor will be a copy of that contained on your website.

1.2 Any advertisement (including your website) in which you refer to:

- (a) the frequency, number or amount of repayments of credit for CHAIN MENDER<sup>®</sup> or
- (b) other payments and charges for CHAIN MENDER<sup>®</sup>

will have to contain specific information in a prescribed form and comply with rules on prominences contained within the CCA and current advertisement regulations (Consumer Credit (Advertisements) Regulations 2004) ("the Regulations").

1.3 It is a criminal offence for an advertisement to be published which breaches the requirements of the Regulations or for an advertisement to convey information which is false or misleading in any material respect. A breach of the CCA or the Regulations may also be taken into account by the Office of Fair Trading in considering fitness to hold a Consumer Credit Licence.

## **2. Information which must be provided in an advertisement for CHAIN MENDER<sup>®</sup>**

2.1 Where you include any of the information referred to in 1.2 above, you need to show all the following information.

- (a) Amount of credit – both the minimum and maximum amount of credit which may be provided, must be shown.
- (b) Advance payment – a statement that no advance payment is required.
- (c) Frequency, number and amount of repayments of credit – the amount of the repayments can be expressed as a sum of money or as a specified portion of a specified amount. I suggest the repayment amount should be shown as "100% of the valuation of your property".
- (d) Other payments and charges – you need to provide a description of the other payments and charges which may be payable by the borrower for CHAIN MENDER<sup>®</sup> and the amount of the payments (ie currently the Arrangement Fee (you need to assume that the Loan is draw down and that part of the Arrangement Fee is rebated) and the Facility Fee).

Although the borrower is not personally liable to pay the "margin" (ie the difference between the loan and the original valuation amount) and the 10% share in any increase in the value of the property, you will need to include:

- i. a description of these charges in the advertisement; and
  - ii. as you do not know the price at which the borrower's property will be sold, the legislation will be satisfied if you include the circumstances in which such charges will be payable (rather than including a monetary figure for them).
- (e) The typical APR<sup>1</sup> - this is to be shown as "Typical X.X % APR". It is also possible to include a range of APRs in addition to the Typical APR provided you show (with equal prominence):
- i. the lowest APR at which you reasonably expect credit would be provided under not less than 10% of the CHAIN MENDER<sup>®</sup> agreements which you enter into as a result of the advertisement, and
  - ii. the highest APR at which you reasonably expect credit would be provided under CHAIN MENDER<sup>®</sup>.

The typical APR is the rate you expect to charge in at least two thirds of the transactions you will enter into as a result of the advertisements.

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<sup>1</sup> The Typical APR has to be shown if the advertisement (a) specifies any other rate of charge, (b) includes any of the information contained in 1.2 above or (c) includes any incentive to apply for credit (eg the rebate of all or part of your Arrangement Fee).

(f) A postal address for Chain Mender Limited (unless the advertisement includes the name and postal address of a credit broker).

2.2 The information referred to in point 2.1 (a) to (e) above will be referred to as the "Required Information".

### **3. Prominence of the Required Information**

3.1 The Required Information must be shown as a whole, and not interspersed with other information. Advertisements on the internet including home pages, will not satisfy "together as a whole" if information is presented on separate pages of a website, or if it is necessary to click the mouse between items.

3.2 The Typical APR must be given greater prominence than any other items included in the Required Information. For an advertisement in printed or electronic form, the Typical APR must be shown in characters at least 1½ times the size of the characters included in the remainder of the Required Information.<sup>2</sup> All other items included in the Required Information must be given equal prominence.

### **4. Other Information to be included in an advertisement**

4.1 The following additional information has to be included in any advertisement for CHAIN MENDER<sup>®</sup>.

(a) A statement that the borrower will have to provide a first legal charge over his property.

(b) The warning (in block capitals) that:

*"Your home may be repossessed if you do not keep up repayments on a mortgage or any other debt secured on it."*

The warning must be given greater prominence in the advertisement than:

i. any rate of charge other than the Typical APR, and

ii. any incentive to enter into the loan;

and no less prominence than the remainder of the Required Information.

4.2 The Regulations contain restrictions on the use of certain expressions in an advertisement. The only relevant restricted expressions for CHAIN MENDER<sup>®</sup> are:

(a) "interest free" or any similar provision indicating that Chain Mender Limited can only recover the amount of the loan and no more from the sale proceeds of the property;

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<sup>2</sup> The Typical APR must also be given greater prominence than any other rate of charge or any incentive to enter into the loan.

- (b) "government licensed" or "licensed by the Office of Fair Trading". You can however use the expression "Licensed under the Consumer Credit Act 1974" or "CCA Licence Number X".

## **5. General requirements for advertisements**

### 5.1 Advertisements:

- (a) must not contain any false or misleading information;
- (b) use plain and intelligible language;
- (c) be easily legible (or in the case of information given orally, clearly audible);  
and
- (d) specify the name of the advertiser.

## **6. Way forward**

- 6.1 I am conscious that you want to keep legal fees to a minimum. Accordingly, I suggest you review your website in the light of the above advice, amend it as necessary and that when CHAIN MENDER<sup>®</sup>'s parameters have been finalised, I review your website for compliance with the CCA.
- 6.2 If you need your website checked for any other purposes, I can ask one of my colleagues who specialises in web sites to review it for you.

Regards,  
Meryl.