



The Money Charity response to FCA CP18/43 on Buy Now Pay Later offers (Mar 2019)

The Money Charity is the UK's leading financial capability charity.

We believe that being on top of your money means you are more in control of your life, your finances and your debts, reducing stress and hardship. And that being on top of your money increases your wellbeing, helps you achieve your goals and live a happier more positive life as a result.

Our vision is for everyone to be on top of their money as a part of everyday life. So, we empower people across the UK to build the skills, knowledge, attitudes and behaviours, to make the most of their money throughout their lives.

We believe financially capable people are on top of and make the most of their money in five key areas:

- Planning (including budgeting)
- Saving
- Debt
- Financial services products
- Everyday money (including wages, cash, bank accounts)

The **MONEY** *Charity*

The Money Charity (TMC) welcomes the opportunity to comment on the FCA's Consultation Paper CP18/43 on Buy Now Pay Later offers.

As explained on the cover page, we are a financial capability charity whose vision is to empower people across the UK to build the skills, knowledge, attitudes and behaviours, to make the most of their money throughout their lives.

Complementing our financial capability work we engage with financial services policy, as the design, pricing and presentation of financial products have a direct bearing on people's ability to behave in financially capable ways.

We welcome the FCA's scrutiny of BNPL and, as qualified by our suggestions below, the regulatory changes proposed.

Q1: Do you have any comments on our description of the BNPL market?

The description on pages 40-42 of the consultation paper seems accurate to us. However we have noted a lack of standardisation in the language used to describe BNPL offers. In CP18/43 and a sample of three commercial BNPL offers we found six different terms for the BNPL offer period:

'Initial period' (CP18/43, Appendix 1)

'Promotional period' (CP18/43, p 41)

'Offer period' (CP18/43, p 42)

'The plan' (www.studio.co.uk)

'Payment free period' (www.littlewoods.com)

'Buy now, pay later period' (www.currys.co.uk)

While we accept there is a wide range of products with a BNPL feature and that companies have to find the best ways to explain these features to their customers, we think from a financial capability point of view that it is unhelpful to have such a wide range of terms for the same thing. This is especially the case where the language and the meaning are not fully aligned. For example, the term 'plan' (above) refers only to the promotional period, not to the repayment period. Similarly, the term 'Buy now, pay later period' (above) refers to the promotional period, not to the period of 'paying later'.

We suggest that the FCA requires firms making BNPL offers to adopt terminology that is (a) more standardised, (b) describes accurately the features being referred to, and (c) will be easily recognised by consumers reviewing different BNPL offers from different vendors.

We say more about language below, in our answer to Question 4.

Q2: Do you agree with our proposal to extend the rule on adequate explanations to all firms that offer BNPL deals?

The relevant proposed text on mandated provision of information reads:

“For *retail revolving credit* and *BNPL agreements*, the limitations that apply to any zero percentage or low interest, introductory or other promotional offer, including the circumstances in which interest or charges could become payable and how these would be calculated if those circumstances arose, including the date from which interest or charges would accrue, the rate of that interest or those charges and the amount of principal on which the interest would be charged. If, for example, failing to meet the conditions for the application of the offer would result in interest being charged at a higher rate, or from the date of the purchase of the *goods* or services **or on the total purchase price of the *goods* or services without account being taken of *repayments* made during the offer period**, this must be included in the adequate explanation.”¹ [Emphasis added]

We agree with the disclosure aspects of the above paragraph, but note that the phrase ‘without account being taken of repayments made during the offer period’ contradicts the FCA proposal (Question 5 below) to require firms to take account of such repayments. Presumably this part of the sentence will be amended if the Question 5 proposal is adopted?

Q3: Do you agree with our proposal to extend the rule on prompts to all firms that offer BNPL deals?

The relevant proposed text on prompts reads:

¹ Appendix 1 of CP18/43, Draft Handbook Text, page 4 of 6, 4.2 Pre-contract disclosure and adequate explanations – 4.2.15 R.

“(2) Where a *customer* has the benefit of a zero-percentage or low interest, introductory or other promotional offer that depends on the *customer* meeting certain conditions, a *firm* must provide notice to the *customer* reminding them of any action they need to take to meet the conditions of the offer and the date by which this action must be taken, within a reasonable period before that date, taking account of the time at which the information may be most useful to the *customer*.

(3) This notice must be provided in an appropriate medium (taking into account any preferences expressed by the *customer* about the medium of communication between the *firm* and the *customer*), in plain language and sufficiently prominent, so that it is likely to be seen and understood by the *customer*.”²

We agree with this. We particularly applaud the words “likely to be seen and understood by the customer.” We expand on the issue of comprehensibility in our answer to Question 4.

Q4: Do you agree with our proposal for new guidance on communications and financial promotions, applicable to all firms that offer BNPL deals?

Yes, we agree with the proposal as set out in paragraph 4.29 of CP18/43 and in the proposed changes to the Handbook in Appendix 1,³ as far as they go.

In addition we suggest that firms should be required to convey their explanations in language that is comprehensible to the average consumer of the product in question, bearing in mind the demographics and financial capability of the consumers of the product.

In our answer to Question 1 above, we noted a confusing range of terminology referring to BNPL offer periods. Similarly, we have noted a wide variation in the level of difficulty of language used by firms explaining BNPL offers. For example, the following paragraph appears in one commercial offer:

“Interest charged and how to avoid it

When we calculate the minimum payment on your statement we do not include a BNPL order until the plan expires. If you choose to spread the cost further and do not pay off the BNPL plan before it expires, interest will be back dated to when the order was despatched. We recommend you make separate payments towards

² Appendix 2 Made Rules (legal instrument), page 9 of 15, 6.7.16A R.

³ Appendix 1, page 3 of 6 and page 4 of 6.

your BNPL plan before it ends. To avoid any interest, you need to keep an eye on, or make a note of the expiry date of the plan and make sure you pay it off before this date. To help you, we include important information such as the expiry date and the amount of the plan in the 'Your Plans' section towards the end of your statement.”⁴

According to standard reading age tests, this paragraph has a reading age of 15-16, which places it above the reading age of many people likely to use BNPL offers. The two key variables in reading age testing are sentence length and frequency of multi-syllabic (three or more syllable) words. The above example has long sentences and a significant number of words with three or more syllables ('calculate', 'minimum', 'BNPL', 'interest' etc)

In contrast with the above, the following example has a reading age of 10-11, which is where text needs to be for the 'average consumer':

“Buy Now Pay Later is really flexible – delay paying for your purchases for a whole year when you spend £50 or more. Buy Now Pay Later is an interest bearing option. Avoid interest by paying the full cash price within the year.

Select Buy Now Pay Later at checkout and the repayment period of either 104 or 156 weeks. This is the repayment period you will pay over, once the payment free period (12 months) has ended.

You can get the use and value out of your purchases now, but pay for them at a later stage, to help you manage your budget.

Typical interest rate 44.9% per annum. Your Interest rate is detailed in checkout.”⁵

The second example uses short sentences and is easier to understand. However, it contains the phrase “44.9% per annum” which many consumers will find difficult to convert into the correct amount of £ and pence.⁶ Where an interest rate is quoted it should be accompanied by an explanation in £ and pence, for example “an interest rate of 44.9% per year means you will be charged £44.90 each year for each £100 borrowed.”

⁴ <https://www.studio.co.uk/relative/your-money/buy-now-pay-later>

⁵ <https://www.littlewoods.com/bnpl.page>

⁶ Some simply won't know what “44.9%” means. Others will know what it means, but won't be able to do the calculation to convert the interest rate into £ and pence for their particular purchase. Some, but possibly a minority, will know both what it means and be able to do the calculation correctly.

'Each year' should be used instead of 'per annum'.

Further, the consumer should be told the exact amount of £ and pence they will pay in interest and repayments on their particular purchase.

While we accept the FCA's point that excessive prescriptiveness should be avoided, we think the rules need to get across the requirement to use language and numerical expressions that the average consumer of the product can actually and relatively easily understand.

Q5: Do you agree with our proposal for a new rule that firms offering BNPL must not backdate interest on the amount of the principal that is repaid within the offer period?

Yes, we agree that the consumer should benefit by having repaid principal recognised. The standard approach to interest is that it is paid on the declining principal balance. The most consistent way of applying this to BNPL is to charge interest only on the principal outstanding at the time the interest free period comes to an end.

We note also that any backdating of interest means that the BNPL offer period ceases to be 'an interest free period', which in a sense contradicts the original offer, so rules should ensure that it is made absolutely clear to consumers, in comprehensible language, that in the event the loan has not been paid off, interest is backdated on the outstanding sum to the beginning of the offer period. Given the level of BNPL interest rates, this can be a large amount of money in relation to the original purchase price.

Q6: Do you agree with our proposal that the rules will come into force three months after publication?

Yes. The introduction of the new rules should be expeditious, especially in the light of the approach proposed in Question 7, and three months gives sufficient notice.

Q7: Do you agree with our proposal that the partial repayment rule should apply to purchases made after the date that the rule comes into effect, including where those purchases relate to an existing contractual agreement?

Yes. Our view is that, generally speaking, it is unreasonable to re-write existing contracts.

Q8: Do you agree with our cost benefit analysis?

We have not made an independent evaluation of the CB analysis, but accept the FCA's conclusion that the changes proposed will be beneficial. The strongest considerations, in our view, are (a) that there should be an adequate level of protection from harm for consumers on low incomes or in vulnerable situations and (b) the FCA and firms should make sure as far as is reasonably possible that consumers understand precisely what they are signing up to. BNPL can deliver value to consumers, but must not be a pathway to unsustainable debt.

Q9: Do you agree with our initial assessments of the impacts of our BNPL proposals on protected groups? Are there any others we should consider?

We agree that protected groups are the most likely beneficiaries of the changes proposed and we commend the FCA for tightening and clarifying the rules in the direction proposed. We note that in the equality assessment the FCA has not specifically mentioned people from BME backgrounds. We think it would be desirable to review the evidence specifically relating to people from BME backgrounds. However, from our experience, we would expect the results to be similar to those for other protected characteristics such as gender and disability.

(end)