

Partner Bulletin

To All Partners
From ALPHERA Business Support
E-mail alpherabusinesssupport@alphera.co.uk
Date 26 November 2024
Subject **Partner Update – Commission Disclosure**

Partner Update – Commission Disclosure

Why are we sending you this Update?

On 25 October 2024, the Court of Appeal decided an important case (“the case”) that has implications for the motor finance industry. In that case, it was found that customers may not fully understand the commercial arrangements in place between motor dealers and finance providers. The case found that motor dealers acting as credit brokers owe certain duties to disclose to their customers commission payable to them by lenders.

The decision may be appealed, but even so, that will take some time to be decided. The case therefore states the current law. Even though ALPHERA considers it has always operated in accordance with regulatory requirements, ALPHERA, along with the rest of the industry, is putting in place new processes to ensure we comply with the position set out in this case.

This update sets out what ALPHERA needs its Partners to do going forward.

What steps are ALPHERA taking?

The case sets a higher standard for the disclosure of commission than had previously been understood to be required. We have put in place a requirement for you to obtain a new specific customer consent from the customer, which sets out more fully the commission we will pay you (copy at Annex 1 & 2). We will also be reviewing our full suite of documentation and processes to provide additional disclosures. We will continue to keep our retailer network updated on any changes.

What we expect of our Partners

ALPHERA values its customers and wants to ensure that it is regularly reviewing its customer journey to ensure customers understand the information provided and that we are transparent in how we operate.

There are key points that we need you to communicate to customers to ensure customers fully understand:

- 1 That you are **not independent or impartial** in the way you select a finance deal. The court case found that customers can misunderstand a motor dealer’s role in finding a finance deal for them and so they can then think that you are acting to find them the most competitive or even best deal available to them. We need to make sure that customers fully understand that this is not your role.
- 2 What **amounts you are paid in commission and any other payments** and **how those amounts are calculated** so that a customer can understand how that might influence the finance deal you have selected.

Before we can release funds on a deal, we need to be comfortable that customers are fully informed.

We have set out below what ALPHERA requires of you (our Partners) to ensure you are making clear to customers both your role in the transaction and to ensure you provide full disclosure of commissions. Your disclosures must be provided well in advance of the customer signing the finance agreement and before you submit the proposal to us, so the customer has time to consider the information, carry out their own research and ask any questions:

1 **Commission disclosure.** You must:

- Prominently disclose to customers that you will receive commission from us for arranging the finance agreement.
- Clearly set out the **amount of any commission.**
- Explain **how the commission was calculated** (i.e. how the commission model operates). This is so that the customer understands how the finance deal might have been impacted. For example, if you earn commission calculated as a percentage of the advance, this could impact the amount of credit you have suggested be taken out by a customer or that a particular product may result in more commission being paid.

2 **Explaining your role.** You must also clearly **explain your role** to the customer in a way that means that a customer does not place trust in you to find them a competitive deal. The points you need to explain include the following (taking care to ensure the customer understands):

- You will receive a commission and therefore will directly benefit if the customer takes out the finance deal you have proposed.
- You are not providing any impartial or independent financial advice or recommendations about the agreement.
- You have a panel of lenders, but you do not search the whole market for suitable options and there may be other (and possibly more suitable) options available to the customer.
- If your decisions might be influenced because you are required to send deals to certain lenders before others.

Our commission disclosure consent form

We have provided you with our commission disclosure consent form (copy at Annex 1) which must be completed and signed by the customer in every case.

Timing of your use of this form:

Option 1: You must ensure our commission disclosure consent form is completed and signed by the customer before proposal stage, or

Option 2: If you are able to provide robust evidence that you have made all the disclosures set out above using your own documentation before proposal stage, our commission disclosure consent form can be completed and signed up to (but always before) signing of our finance agreement.

In both cases, you must provide our signed commission disclosure form as part of the documentation pack for payout.

You need to ensure the disclosures were clearly brought to the customer's attention. The disclosures should be provided in writing so that you can point to where this was done if you were challenged. Additional oral disclosure reinforcing these points is helpful.

Other requirements:

- If you use another broker, you must ensure that the broker also provides the required disclosure.
- If a customer asks you for more information about your commercial arrangements with finance providers, we expect you to provide them with the information they need to make an informed choice.
- Throughout the process, you **must not** tell the customer or give them the impression, either orally, in writing, on your website or in any customer literature or advertising that:
 - You can get them a competitive finance deal.
 - You can find them the best finance deal.
 - You act in the customer's best interests when you find them a finance deal.
- We are not allowed to pay you commission without making sure that the customer has fully consented to it. We may delay or refuse to payout if our disclosure consent form, completed and signed by the customer, is not provided to us.

For the avoidance of doubt, nothing in this update changes your obligations to comply generally with laws and regulations that apply to you – including your obligations that apply to you as a result of the case or more broadly, or which apply under the Financial Conduct Authority's Handbook Rules. In particular, we would like to remind you of your obligations under the Consumer Duty as a Co-Manufacturer and refer to our Co-Manufacturing Agreement. If you have not already signed and returned this agreement to us, please do so as soon as possible.

What are the next steps?

As set out above, we have provided you with our required wording for the commission disclosure consent form. This is an interim measure to ensure minimal disruption to our customers and may be subject to change. We will be updating our own documents and process and expect you to take steps to fully review your own processes and documents to ensure your compliance with the above requirements. We will write to you further about this in the new year.

Nothing in this note is intended to be legal advice and we strongly recommend that you seek independent legal advice.

If you have any questions or concerns at this stage, please contact your Business Development Manager. Thank you for your support and we'll continue to liaise closely with you as matters develop.

Yours faithfully



Alex Royall
Chief Sales Officer

ANNEX 1 - Dealer
COMMISSION DISCLOSURE FORM

THIS IS IMPORTANT INFORMATION PROVIDED BY ALPHERA FINANCIAL SERVICES ABOUT THE COMMISSION WE
PAY TO THE DEALER.

Dealer: _____

What is the Dealer's role?

The Dealer has an arrangement with us to introduce their customers to us. When they introduce you to us, they are acting as a "credit broker". We will pay them a commission for this when you enter into an agreement with us. The Dealer will usually have a selection of lenders or intermediaries.

When the Dealer introduces you to us, they are not acting independently. The commission amount might influence them. The Dealer is not giving you advice or recommendations. Depending on your situation, you may find a better deal if you look around.

What commission will we pay to the Dealer?

If you enter into the proposed finance agreement with us, we will pay the Dealer commission. We calculate commission in two different ways, depending on the vehicle being financed. The one that applies in your case is ticked and completed below.

Commission calculation 1: This is a fixed amount that we pay to the Dealer for introducing you.

Commission Amount	
-------------------	--

Commission calculation 2: The commission amount is calculated as a percentage of the Amount of Credit under the proposed agreement. The more you borrow from us, the more commission we will pay.

Commission Amount	
Percentage used to calculate the commission	

The fixed amount or percentage may vary by model or age of the vehicle being financed. The amount shown above is the commission we will pay for your agreement. The APR interest rate that you pay for your finance agreement with us is fixed. The Dealer cannot change the APR and/or the commission for your finance agreement. We take into account the payment of commission when we set the APRs which we offer to customers.

If you have any questions, please discuss them with your Dealer before signing. DO NOT sign or proceed with your finance if you have any concerns or if the amount shown above is not completed.

Customer consent

You can choose whether to continue with the finance deal or look around for other alternatives. If you understand what we have explained and are comfortable to proceed, please sign the below.

CUSTOMER DECLARATION

I understand the information in this document. I understand that the Dealer is not acting impartially and will be paid the commission amount disclosed above. I confirm that I am happy to proceed with the finance and consent to the Dealer being paid this amount.

Customer signature: _____

Print customer name: _____

Date: _____

ANNEX 2 – Broker
COMMISSION DISCLOSURE FORM

THIS IS IMPORTANT INFORMATION PROVIDED BY ALPHERA FINANCIAL SERVICES ABOUT THE COMMISSION WE
PAY TO THE BROKER.

Broker: _____

What is the Broker's role?

The Broker has an arrangement with us to introduce their customers to us. When they introduce you to us, they are acting as a "credit broker". We will pay them a commission for this when you enter into an agreement with us. The Broker will usually have a selection of lenders or intermediaries.

When the Broker introduces you to us, they are not acting independently. The commission amount might influence them. The Broker is not giving you advice or recommendations. Depending on your situation, you may find a better deal if you look around.

What commission will we pay to the Broker?

If you enter into the proposed finance agreement with us, we will pay the Broker commission. We calculate commission in two different ways, depending on the vehicle being financed. The one that applies in your case is ticked and completed below.

Commission calculation 1: This is a fixed amount that we pay to the Broker for introducing you.

Commission Amount	
-------------------	--

Commission calculation 2: The commission amount is calculated as a percentage of the Amount of Credit under the proposed agreement. The more you borrow from us, the more commission we will pay.

Commission Amount	
Percentage used to calculate the commission	

The fixed amount or percentage may vary by model or age of the vehicle being financed. The amount shown above is the commission we will pay for your agreement. The APR interest rate that you pay for your finance agreement with us is fixed. The Broker cannot change the APR and/or the commission for your finance agreement. We take into account the payment of commission when we set the APRs which we offer to customers.

If you have any questions, please discuss them with your Broker before signing. DO NOT sign or proceed with your finance if you have any concerns or if the amount shown above is not completed.

Customer consent

You can choose whether to continue with the finance deal or look around for other alternatives. If you understand what we have explained and are comfortable to proceed, please sign the below.

CUSTOMER DECLARATION

I understand the information in this document. I understand that the Broker is not acting impartially and will be paid the commission amount disclosed above. I confirm that I am happy to proceed with the finance and consent to the Broker being paid this amount.

Customer signature: _____

Print customer name: _____

Date: _____