Banking: Conduct of Business sourcebook

Chapter 2

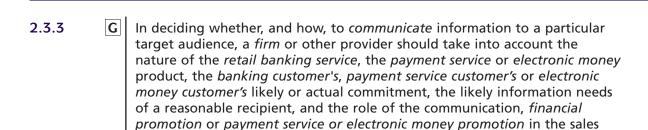
Communications and financial promotions



2.3 Other general requirements for communications and financial promotions

- 2.3.1 R A firm must ensure that each communication made to a banking customer and each financial promotion communicated or approved by the firm:
 - (1) includes the name of the firm;
 - (2) is accurate and, in particular, does not emphasise any potential benefits of a retail banking service without also giving a fair and prominent indication of any relevant risks;
 - (3) is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received; and
 - (4) does not disguise, diminish or obscure important information, statements or warnings.
- 2.3.1A A provider must ensure that each communication made to a payment service customer or an electronic money customer and each payment service or electronic money promotion communicated by it:
 - (1) includes the name of the provider;
 - (2) is accurate and, in particular, does not emphasise any potential benefits of a payment service or electronic money product without also giving a fair and prominent indication of any relevant risks;
 - (3) is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received; and
 - (4) does not disguise, diminish or obscure important information, statements or warnings.
- 2.3.2 The name of the firm or other provider may be a trading name or shortened version of the legal name of the firm, provided the banking customer, payment service customer or electronic money customer can identify the firm or provider communicating the information.

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process.

- 2.3.4 G If a communication or a financial promotion or payment service or electronic money promotion names the FCA, PRA or both as the regulator of a firm or other provider, and refers to matters not regulated by the FCA, PRA or both, the firm or other provider should ensure that the communication, financial promotion or payment service or electronic money promotion makes clear that those matters are not regulated by the FCA, PRA or both.
- 2.3.5 G When communicating information, a firm or other provider should consider whether omission of any relevant fact will result in information given to the banking customer, payment service customer or electronic money customer being insufficient, unclear, unfair or misleading.
- 2.3.6 The Depositor Protection Part of the *PRA Rulebook* may apply in relation to communications with a *banking customer*.
- 2.3.7 If a communication or a *financial promotion* compares a *retail banking* service with one or more other *retail banking service* (whether or not provided by the *firm*), the *firm* must ensure that the comparison is meaningful and presented in a fair and balanced way.
- 2.3.7A If a communication or a payment service or electronic money promotion compares a payment service or service in relation to electronic money with one or more other retail banking service, payment service or service in relation to electronic money (whether or not provided by the provider), the provider must ensure that the comparison is meaningful and presented in a fair and balanced way.
- 2.3.7B If a communication or payment service or electronic money promotion compares the cost of a currency transfer service with the cost of a service provided by any other provider or providers (whether identified or not):
 - (1) the comparison must be meaningful and presented in a fair and balanced way; and
 - (2) the *firm* or other provider must be able to substantiate the claims made.
- 2.3.7C G For the purpose of BCOBS 2.3.7BR the cost of a *currency transfer service* includes:
 - (1) any charges payable in relation to the currency conversion;

- (2) any charges payable in relation to a connected payment service or electronic money issuance; and
- (3) the margin between the exchange rate that would be offered to a majority of persons of the class at whom the promotion is directed and a currently applicable interbank exchange rate, calculated using an independently published interbank spot rate.
- 2.3.8 If a communication or a financial promotion in relation to a retail banking service refers to a particular tax treatment or rate of interest payable, a firm must ensure that a prominent statement that the tax treatment or the rate of interest payable:
 - (1) depends on the individual circumstances of each banking customer; and
 - (2) may be subject to change in the future;

is either included in that communication or financial promotion, or provided to the banking customer on paper or in another durable medium in good time before the banking customer is bound by the contract for that retail banking service.

- G 2.3.9 When designing a financial promotion, a firm may find it helpful to take account of the British Bankers' Association/Building Societies Association Code of Conduct for the Advertising of Interest Bearing Accounts.
- 2.3.10 R (1) This *rule* applies to the communication of the balance of a payment account within the meaning of the Payment Accounts Regulations, other than a current account mortgage.
 - (2) The communication must not include a figure described as "available funds", "balance", "available balance" or any similar expression that includes both sums standing to the credit of the account and sums available under an authorised non-business overdraft agreement associated with the account.
- G 2.3.11 (1) BCOBS 2.3.10R does not prohibit a firm from disclosing sums available for drawdown under an authorised non-business overdraft agreement alongside a "balance", "available funds" or "available balance" figure.
 - (2) Where an account is overdrawn, BCOBS 2.3.10R does not prohibit a firm from describing as a "balance" a negative figure that represents the amount by which the account is overdrawn.

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