

Chapter 3

Distance communications

3.2 E Commerce

Application

- 3.2.1 **R** This section applies to a *firm* carrying on an *electronic commerce activity* from an *establishment* in the *United Kingdom* with or for a *person* in the *United Kingdom*.

Information about the firm and its products or services

- 3.2.2 **R** A *firm* must make at least the following information easily, directly and permanently accessible to the recipients of the *information society services* it provides:
- (1) its name;
 - (2) the geographic address at which it is established;
 - (3) the details of the *firm* including its e-mail address, which allow it to be contacted rapidly and communicated with in a direct and effective manner;
 - (4) an appropriate statutory status disclosure statement (■ GEN 4 Annex 1 R), together with a statement which explains that it is on the *Financial Services Register* and includes its Firm Reference Number;
 - (5) if it is a *professional firm*:
 - (a) the name of the professional body (including any *designated professional body*) or similar institution with which it is registered;
 - (b) the professional title;
 - (c) a reference to the applicable professional rules and the means to access them; and
 - (d) where the *firm* undertakes an activity that is subject to VAT, its VAT number.

[Note: article 5(1) of the *E-Commerce Directive*]

- 3.2.3 **R** If a *firm* refers to price, it must do so clearly and unambiguously, indicating whether the price is inclusive of tax and delivery costs.

[Note: article 5(2) of the *E-Commerce Directive*]

3.2.4 **R** A *firm* must ensure that commercial communications which are part of, or constitute, an *information society service*, comply with the following conditions:

- (1) the commercial communication must be clearly identifiable as such;
- (2) the *person* on whose behalf the commercial communication is made must be clearly identifiable;
- (3) promotional offers must be clearly identifiable as such, and the conditions that must be met to qualify for them must be easily accessible and presented clearly and unambiguously; and
- (4) promotional competitions or games must be clearly identifiable as such, and the conditions for participation must be easily accessible and presented clearly and unambiguously.

[Note: article 6 of the *E-Commerce Directive*]

3.2.5 **R** An unsolicited commercial communication sent by e-mail by a *firm* must be identifiable clearly and unambiguously as an unsolicited commercial communication as soon as it is received by the recipient.

[Note: article 7(1) of the *E-Commerce Directive*]

Requirements relating to the placing and receipt of orders

3.2.6 **R** A *firm* must (except when otherwise agreed by parties who are not consumers):

- (1) give an *ECA recipient* at least the following information, clearly, comprehensibly and unambiguously, and prior to the order being placed by the recipient of the service:
 - (a) the different technical steps to follow to conclude the contract;
 - (b) whether or not the concluded contract will be filed by the *firm* and whether it will be accessible;
 - (c) the technical means for identifying and correcting input errors prior to the placing of the order; and
 - (d) the languages offered for the conclusion of the contract;
- (2) indicate any relevant codes of conduct to which it subscribes and information on how those codes can be consulted electronically;
- (3) (when an *ECA recipient* places an order through technological means) acknowledge the receipt of the recipient's order without undue delay and by electronic means; and
- (4) make available to the *ECA recipient* appropriate, effective and accessible technical means allowing the recipient to identify and correct input errors prior to the placing of an order.

[Note: articles 10(1) and 11(1) and (2) of the *E-Commerce Directive*]

3.2.7 **R** For the purposes of ■ BCOBS 3.2.6R (3), an order and an acknowledgement of receipt are deemed to be received when the parties to whom they are addressed are able to access them.

3.2.8 **R** Contractual terms and conditions provided by a *firm* to an *ECA recipient* must be made available in a way that allows the recipient to store and reproduce them.

[Note: article 10(3) of the *E-Commerce Directive*]

Exception: contract concluded by e mail

3.2.9 **R** The requirements relating to the placing and receipt of orders (■ BCOBS 3.2.6R (3)) do not apply to contracts concluded exclusively by exchange of e-mail or by equivalent individual communications.

[Note: articles 10(4) and 11(3) of the *E-Commerce Directive*]