

Chapter 8

Financial promotion and related activities



8.30 Medium used to give advice or
information

- 8.30.1 **G** With the exception of periodicals, broadcasts and other news or information services (see ■ PERG 8.31.2 G), the medium used to give advice should make no difference to whether or not it is caught by article 53(1).
- 8.30.2 **G** Advice can be provided in many ways including:
- (1) face to face;
 - (2) orally to a group;
 - (3) by telephone;
 - (4) by correspondence (including e-mail);
 - (5) in a publication, broadcast or website; and
 - (6) through the provision of an interactive software system.
- 8.30.3 **G** Taking electronic commerce as an example, the use of electronic decision trees does not present any novel problems. The provider of the service will be giving advice for the purpose of article 53(1) only if the service results in something more than a generic recommendation, as with a paper version.
- 8.30.4 **G** Advice in publications, broadcasts and websites is subject to a special regime – see ■ PERG 8.31.2 G and ■ PERG 7.
- 8.30.5 **G** Some software services involve the generation of specific *buy, sell* or hold signals relating to particular *investments*. These signals are liable, as a general rule, to be advice for the purposes of article 53(1) (as well as *financial promotions*) given by the *person* responsible for the provision of the software. The exception to this is where the user of the software is required to use enough control over the setting of parameters and inputting of information for the signals to be regarded as having been generated by him rather than by the software itself.