Finalised guidance

Financial promotions - guidance

Prominence

September 2011

Financial promotions – guidance
Prominence

1. We publish industry updates on issues or trends that we identify through our routine monitoring of financial promotions compliance. The aim of these publications is to capture emerging concerns and, where necessary, to clarify our expectations of firms.
2. These updates are meant to help you understand the rules better, but they are no substitute for referring to the rules themselves. You should always ensure that the promotions you produce comply with all the relevant rules and guidance.
3. We are aware from monitoring financial promotions that prominence can be interpreted in many different ways, often leading to inconsistent standards. Here we attempt to clarify some of those inconsistencies.

When do the rules on prominence apply?

4. Prominence of relevant information plays a key role in ensuring that a communication is clear, fair and not misleading. As a consequence, a number of requirements for financial promotions within the Conduct of Business sourcebooks relate to prominence. Prominence is an important consideration for firms producing financial promotions across all product areas and for all media types – for example via the internet, television, press and other written communications.

5. There are many promotional features that must be considered in relation to prominence, such as: interest rates, fees, charges, relevant risk statements and other key product information. This list is by no means exhaustive and firms must ensure that they have checked all relevant areas of the Conduct of Business sourcebooks in ensuring that our expectations on prominence are addressed for all different product types and services.

How can you assess prominence?

6. Prominence can be defined as 'the state of being easily seen', i.e. in terms of a statement within a financial promotion, 'likely to attract attention, for instance, by virtue of its size or position'.
7. Prominence can be subjective – something that may appear clear to one person may not be to another. In deciding whether a particular statement meets the rules on prominence, consideration should be given to the target audience, the nature of the product or business and the likely information needs of the average recipient. Targeted consumer testing is an avenue that could be explored to assist with your assessments in this area.
8. We will look at prominence in the context of the promotion as a whole. You should consider the positioning of text, background, colour and type size to ensure that the prescribed information meets our requirements.

Examples of good practice

- Important information, statements or warnings are shown using clear and bold type styles across neutral backgrounds.
- The size of the important information, statement or warning is proportionate, taking into account the content, size and orientation of the promotional material as a whole.
- Both the benefits and drawbacks of a product are balanced through equally prominent feature statements.
- Risk warnings are contained within their own distinct border, thus drawing the reader's attention to them.
- Risk warnings are clearly stated within the main body of the advertisement and ahead of the 'small print' (i.e. the additional product / legal text and firm contact information).
- Risk information appears on the website landing page that the customer first arrives at when following a promotional link.
- Risk warnings remain fixed on the screen even when the customer scrolls up and down respective web pages.
- The risks are repeated on linked pages further into the website product chain.
- Risk statements remain fixed on the television screen throughout the duration of the commercial.

Examples of poor practice

- Important information is obscured through the close proximity of promotional illustrations and / or additional text.
- Risk warnings are diminished due to their location being outside of the main advertisement border.
- Statements are diminished through the use of small font sizes and unclear type styles.
- Due to the size of text used, risk statements on TV advertisements do not convey a sufficiently clear message to the viewer.
- Important information is hidden within, or in some cases absent from, the respective internet landing page and only accessed through significant scrolling down and / or multiple page links.
- Due to their positioning, risk warnings can be easily overlooked, resulting in the consumer being taken directly to an application form (e.g. by clicking on to a banner advertisement or accepting a cookie).
- Risk statements are contained within a 'pop-up' box that only appears on the user's first visit to the website.
- Key information / warnings, such as fees or exclusions, are buried within the website or placed under a separate section or heading, such as 'FAQs', 'Legal Information' or 'Disclaimers'.
- Firms have not taken into account the different-sized browsers of consumers when positioning risk information (i.e. it is necessary to scroll down to access the information).
- Important information, statements or warnings are superimposed across coloured or patterned backgrounds which lessens their visual impact.

Prominence of risk statements

9. As previously stated, the consideration of 'prominence' is not confined to risk statements alone, although they can be used as an example to illustrate the principle.
10. Our general rule in communicating with retail clients requires firms to ensure that information does not emphasise any potential benefits without also giving a fair and prominent indication of any relevant risks (COBS 4.5.2R (2)). Furthermore, the information presented should not disguise, diminish or obscure important items (COBS 4.5.2R (4)).
11. COBS 4.2.4G states that a firm should ensure that a financial promotion for a product or service that places a client's capital at risk makes this clear. Let's consider the following two examples:

Example 1

BORZOI STOCKS & SHARES ISA

- Choose between four global funds
- No initial charge*

The value of your investments can go down as well as up, so you could get back less than you invested. * Annual management charges apply. Our stocks & shares ISAs are designed to be held for the medium to long term. Borzoi Investments Ltd are authorised and regulated by the Financial Services Authority. Registered Office: 1, South Street, London. E1 1AA.

Example 2

BORZOI STOCKS & SHARES ISA

- Choose between four global funds
- No initial charge
- Annual Management Charges apply

The value of your investments can go down as well as up, so you could get back less than you invested

Our stocks & shares ISAs are designed to be held for the medium to long term. Borzoi Investments Ltd are authorised and regulated by the Financial Services Authority. Registered Office: Borzoi House, 1, South Street, London. E1 1AA.

12. Example 1: despite the inclusion of a relevant 'capital at risk' warning, the advertisement does not meet our expectations on prominence as the warning is not distinctly clear in context of the promotion as a whole.
13. In this instance, its prominence is compromised due to the small font used, close proximity of the illustration and the continuation of other product / company information with the same font type and style.
14. Example 2: this has been significantly improved as the risk statement has been separated out from the other small print and written using a larger and bolder typeface. Prominence has also been improved by including a clear coloured box around the statement that segregates it from the coloured illustration. In addition, the Annual Management Charge information has been moved from the small print to form a specific product feature bullet point, thus improving the balance between stated product benefits and drawbacks.
15. Please do not forget that prominence applies to many areas across COBS. For specific rules on investment-related financial promotions, please see: http://fsahandbook.info/FSA/html/handbook/COBS/4

Mortgage-related examples

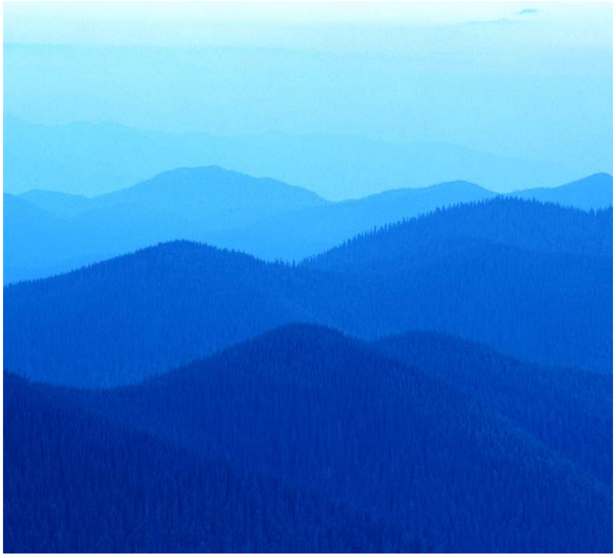
16. MCOB 3.6.4E & MCOB 3.6.13R describes the rules on statements of fact and risk for financial promotions of qualifying credit, home reversion plans and regulated sale and rent back agreements.
17. Again prominence is a key consideration, which can be illustrated by the following two examples of press adverts within 'newspapers'.

Remember, our examples of good practice are for illustrative purposes only and whilst their design features may be relevant in the context of the promotion to which they relate, they should not be viewed as specific regulatory expectations. It is important to judge prominence on a case-by-case basis.

Financial Promotion News

FSA publish industry update on prominence

This is example text. This is example text.



3.99% 4 Year Fixed Rate Mortgage

Reverting to our standard rate for the remainder of your mortgage term, currently

3.75% variable

The overall cost for comparison is

4.0% APR

- £150 Booking Fee
- Available for Re-Mortgages & Home Movers
- Maximum 70% Loan To Value

Borzoi Mortgage Company Ltd, Borzoi House, 1 South St. London E1 1AA. Call us on 0800 800 800, lines open Mon-Fri 8am-7.30pm, Sat 9am-1pm.

Our mortgage products can change or be withdrawn at any time and are subject to underwriting. Rates correct as at 21/3/2011. Standard terms available on request. YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT KEEP UP REPAYMENTS ON YOUR MORTGAGE. Early repayment charges apply during the fixed rate period.

When do the rules on prominence apply?

This is example text. This is example text.

Prominence of risk statements

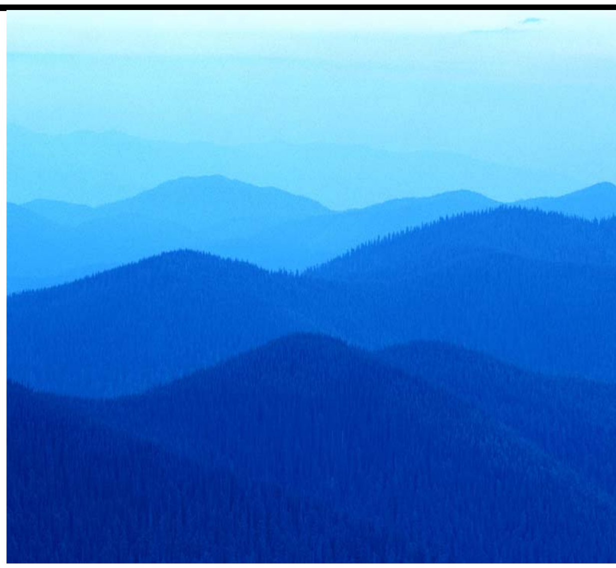
This is example text. This is example text.

This is example text. This is example text. This is example text. This is example text. This is example text. This is example text. This is example text.

Financial Promotion News

FSA publish industry update on prominence

This is example text. This is example text.



3.99% 4 Year Fixed Rate Mortgage

Reverting to our standard rate for the remainder of your mortgage term, currently

3.75% variable

The overall cost for comparison is

4.0% APR

- £150 Booking Fee
- Available for Re-Mortgages & Home Movers
- Maximum 70% Loan To Value
- Early repayment charges apply during the fixed rate period

YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT KEEP UP REPAYMENTS ON YOUR MORTGAGE

Our mortgage products can change or be withdrawn at any time and are subject to underwriting. Rates correct as at 21/3/2011. Standard terms available on request.

Borzoi Mortgage Company Ltd, Borzoi House, 1 South St. London E1 1AA. Call us on 0800 800 800, lines open Mon-Fri 8am-7.30pm, Sat 9am-1pm.

When do the rules on prominence apply?

This is example text. This is example text.

Prominence of risk statements

This is example text. This is example text.

This is example text. This is example text. This is example text. This is example text. This is example text. This is example text. This is example text. This is example text. This is example text.

18. In the first example and in relation to the fixed-rate mortgage advertisement, the appropriate risk statement is included, however, it is positioned outside of the main advertisement border. Furthermore, the statement, despite using capital typeface, is "hidden" amongst additional text and therefore not easily seen by the average reader. For these reasons it does not meet our expectations regarding prominence.
19. When assessing whether or not a piece of information is prominent, it is important to consider its positioning within the respective media source used. In this example, it is possible that consumers may not link the segregated text to the main body of the advertisement at all and as such, it is likely to be overlooked.
20. In the second example of our fictitious newspaper, clarity of the required risk statement has been significantly improved, benefiting from inclusion within the main body of the mortgage advertisement and separation from the other promotional and legal text. The prominence of charging information has also been improved within the second example, with the early repayment terms moved from the small print to form a main product feature bullet point.
21. Please do not forget that prominence applies to many areas across MCOB. For specific rules on mortgage related financial promotions please see:

    http://fsahandbook.info/FSA/html/handbook/MCOB/3
22. Similar principles to those described by the preceding examples also apply when considering the prominence of insurance related pricing claims (ICOBS 2.2.4G) and in terms of our general requirements when communicating to banking customers (BCOBS 2.3.1R). Guidance on the related rules can be accessed using the following handbook links:

    http://fsahandbook.info/FSA/html/handbook/ICOBS/2/2

    http://fsahandbook.info/FSA/html/handbook/BCOBS/2/3

Conclusions and next steps

23. Prominence of relevant information is an important concept within our financial promotions regime and we expect firms to demonstrate a clear understanding of our expectations.
24. We can take action against firms who do not show due regard to the rules on prominence, picked up through our routine monitoring or thematic reviews.