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# Financial Services Authority

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The Secretary  
Press Complaints Commission  
1 Salisbury Square  
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Dear Sir

## Financial promotions and the Press Complaints Commission Code

As you may know, the Financial Services and Markets Act 2000 ("FSMA") makes it an offence to communicate, in the course of business, "an invitation or inducement to engage in investment activity"<sup>1</sup>.

This prohibition is subject to certain exemptions, the principal one being that the person making the communication is authorised by the FSA. Other exemptions are set out in the Financial Promotion Order ("FPO")<sup>2</sup>.

One of these covers communication by journalists<sup>3</sup>. Broadly, the exemption covers printed material where the content is "devised by a person acting in the capacity of a journalist" and where the principal purpose of the publication in which the material is contained is not to advise on investments (eg a typical daily national newspaper).

Where the authors of the communication<sup>4</sup> are likely to obtain a financial benefit (or avoid a financial loss) if people act in accordance with the invitation or inducement, the exemption cannot be relied upon unless one of three conditions relating to disclosure are met<sup>5</sup>. The third one of these is that:

*"(c) the publication in which the communication appears falls within the remit of the Code of Practice issued by the Press Complaints Commission."*

We assume this condition would cover most, if not all, national newspapers.

<sup>1</sup> s 21(1), FSMA.

<sup>2</sup> The Financial Services and Markets Act (Financial Promotion) Order 2001 (SI 2001/1335).

<sup>3</sup> Article 20, FPO.

<sup>4</sup> The authors of a communication are defined as "the person who devises the content of the communication and the person who is responsible for deciding to include the communication in the... publication" (Article 20(3)(a), FPO).

<sup>5</sup> Article 20(2), FPO.

We are aware that newspapers occasionally produce "product guides" (eg on ISAs or unit trusts) that are sponsored by financial firms. It has been suggested to us that these arrangements can also involve articles being written in the newspaper itself to promote both the guide and the companies sponsoring them, as part of the sponsorship arrangement.

We would be grateful for the Commission's view on what disclosures newspapers should be including in any such articles in order to comply with the requirements of the PCC Code.

The section of the Code headed "Financial Journalism" does not seem to address this area, being more directed towards preventing the abuse of privileged information.

We look forward to hearing from you.

Yours faithfully



**John Everett**

Review & Remediation  
Financial Promotions Department