



Use of social media in financial promotions. Staying onside of the Regulator

By Neil Edwards

Alternative Finance businesses need to maximise the use of social media to get their brands in front of the widest possible relevant audience, but it presents regulators with a headache. Instantaneous, viral and occasionally irreverent, putting a framework around social media for financial services businesses must be like knitting fog.

The good news is that, in my view, the FCA is taking a pragmatic rather than head masterly approach. All the signs of the consultation that it has now kicked off show that it understands the medium and the benefits it can bring to providers and consumers alike. The FCA says that it recognises that social media encourages choice and competition by allowing smaller providers to compete with the more established brands. Thank heavens for that.

What qualifies as a financial promotion?

Any form of communication is capable of being a financial promotion. The acid test is: is it an invitation or inducement to engage in financial activity? If it is, then it's a financial promotion.

For example:

Go to www.mortgages.co.uk to see our mortgage offers - is compliant.

Go to www.mortgages.co.uk to see our great mortgage offers - is non-compliant because use of the word 'great' is deemed an

inducement (Don't blame me, I'm just passing it on).

Basic principles

The FCA's guidance on financial promotions is media neutral so social media gets no special exemptions from the basic principle that any communication must be fair, clear and not misleading; it must balance the benefits and risks; and provide consumers with certain minimum information. In addition, there must be adequate risk warning, with adequate prominence, and the 'past performance rule' applies.

So, how do you achieve all of this in a character limited environment like Twitter or Facebook?

Staying on the right side

The FCA provides some useful advice that can be adopted as best practice.

- Signpost a product or promotion with a link to more comprehensive information - remember through that the promotion must remain compliant itself
- Use of image advertising e.g. a picture with the compliant terms in it or a dynamic banner that has the warnings at the end of the sequence
- Use the hashtag #ad to clearly identify a financial promotion
- Use software that allows adverts to be accurately targeted on specific user groups

What happens if your post is 'liked', 're-tweeted' or otherwise shared?

Fortunately, it is decreed that a business is not responsible for how its posts are shared

providing the original post is compliant.

If you are the sharing business, for example, you might want to share some positive client sentiment or a journalist tweeting their article about you, you must make sure your retweet is compliant as your business is judged to be the communicator. Got it?

I think it's worth squeezing in at this point that somebody liking your business on Facebook or following it on Twitter does not, in itself, establish an existing client relationship for the purposes of unsolicited promotions. You will still need specific consent if you're going to market to them.

Establishing your processes

There are three reference documents that are worth having to hand:

1. The Law Society's **guidance notes** on social media. These were written to keep law firms on the right side of the law, but the principles can be adapted and adopted in any business
2. The FCA's **consultation document**. This expands on the notes outlined above and provides a number of pictorial examples
3. The **Advertising Standards Authority's CAP codes** on standards in advertising

Other guidance is to have an appropriately senior person in place to sign off digital communications and to keep adequate records of significant communications.

All of this doesn't, in my personal view, mean that every tweet and

Facebook post has to be signed off in triplicate in a financial services business. Once adequate training has been provided and a framework of acceptable and unacceptable posts has been established, it should be possible to allow social media to operate relatively freely within an organisation. Prior sign-off of key promotional posts for the week or month by the compliance manager would be sensible and there should be a regular sampling process in place to quickly spot transgressions.

The FCA consultation closes on 6 November and we'll provide an update with any significant announcements then.

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About the Author

Neil is a Chartered Marketer and Fellow of the Chartered Institute of Marketing with many years' experience in marketing, brand and communications.

His experience includes being a Director of Marketing in The Royal Bank of Scotland Group where he was responsible for brands in the UK, Ireland and US. Those brands include: Lombard, Jamjarcars.com, Angel Trains and Dixon Motors.

Entrepreneurial, creative and energetic, Neil's success has come from a pragmatic and intelligent approach to combining marketing with business needs.

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