

Ms Brenda Gibson

6 September 2000

Investment Business Policy

Our Ref: LA20 COBS

The Financial Services Authority

25 The North Colonnade

Canary Wharf

London E14 5HS

Dear Ms Gibson

CP57: CoBS Supplement

Thank you for your very clear note on the Supplement. As you know, the Panel has already commented on some of the issues in the Supplement, such as the Client Money regime and plans to look at others outside the context of this consultation. For example, the Panel will be discussing with your colleagues the FSA's wider review of best execution requirements. For those reasons the Panel has decided not to submit a detailed response to CP57.

However, there is one point the Panel wishes to make in response to Q17, which relates to proposed changes to a financial promotion rule to implement the Comparative Advertising Directive. The revised version suggested in the CP is much more specific than the original wording, but the emphasis appears to have moved towards competition and the value of trademarks or trade names, with a potential loss of consumer protection. We have no objection to the specific examples set out in the new wording quoted in paragraph 7.14. However, the original wording is stronger in the following respects:

- The comparison or contrast has to be "presented in a fair and balanced way, which is not misleading" – this is broader than the revised list because it relates to the impact of the presentation on consumers, as well as the impact on market perception of competitor firms.
- The comparison or contrast has to include "all factors which are relevant to the comparison or contrast" – this wording enables FSA to take account of factors not specifically mentioned in the para 7.14 list.

The Panel therefore recommends that the original wording of COB 3.8.5E (1)(d) is retained and the proposed wording in para 7.14 is added to that wording, rather than replacing it. That is, the list would form examples of what firms should avoid, but would not be exhaustive.

I would be grateful if you would keep the Panel informed of any significant changes to the Supplement proposals which FSA envisages making as a result of the consultation.

Yours sincerely

Colin Brown

Vice Chair

FS Consumer Panel