Playing by the

Financial services marketers are getting rather hot under their collective starched collar, fuming at seemingly draconian regulations imposed by industry watchdog the Financial Services Authority (FSA).

Following last year's introduction of tighter rules governing the promotion of financial products, the FSA has created a 36-strong Financial Promotions department, with a formidable-sounding offshoot – the Enforcement Division. Talk to some in the industry, and one is left with the impression that it lives up to its name, comprising a team of grim-faced regulators, willing to impound anyone quoting exaggerated APRs on savings ads.

The FSA certainly has the industry in its thrall. Its demand that financial promotions are 'clear, fair and not misleading' sounds benign enough, but the fact that it also wants advertisers to be far more blatant about communicating the risks associated with products is not so easy to swallow. Gone are the days when these warnings could be buried in the small print. The FSA wants this lengthy copy incorporated into the main ad, or at least presented in a way that is balanced with the main promotional message.

The body is also clamping down on one of the industry's favoured sales tools – quoting headline percentages to illustrate returns on investment or fund growth. Firms must now be extremely careful when quoting numbers, especially if they are based on unrealistic assumptions not mentioned in the promotion. Selling investments based on headline numbers of 'past performance' is also a grey area, instilling nervousness in marketers about what they can say.

Stricter regulations over the marketing of financial services are designed to protect consumers. But are they also stifling creativity, asks James Curtis

Many advertisers argue that the rules are stifling financial marketing. Lucian Camp, chairman of CCHM:Ping, a financial services agency whose clients include Nationwide and American Express, says the FSA's rules are unworkable. 'Advertisers are having to buy twice as much space just so that half of it can contain negative messages about products,' he says. 'The FSA would be happy to see that happen, but it won't. What will happen is that companies won't advertise at all.'

Spending slump

Camp says the volume of personal finance ads, particularly those concerning investment, inevitably declined after the stock market dives of 2001 and 2002. Now that investor confidence is returning, advertising levels should be rising. Instead, believes Camp, FSA rule changes are keeping adspend down.

He argues that financial services advertising plays a crucial role in filling the UK's savings gap. If firms are deterred from selling their products, he argues, the FSA will, albeit unwittingly, make the problem worse. 'If advertisers give the prominence to risk that the FSA wants, mass-market consumers will be scared off. Does the FSA want them to invest in long-term savings? If it does, this regime will make it impossible to achieve.'

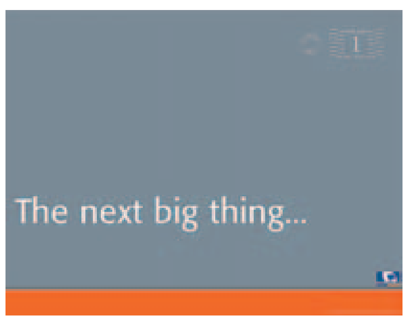
Allegran Advertising, an online media agency with financial clients such as MBNA and Virgin, says the tighter rules are having a dramatic effect. Ray Witter, sales and marketing director, claims clients are reporting a 10%-25% drop in response rates, and that the agency's income from regular financial clients has fallen by 30% over the past three months.

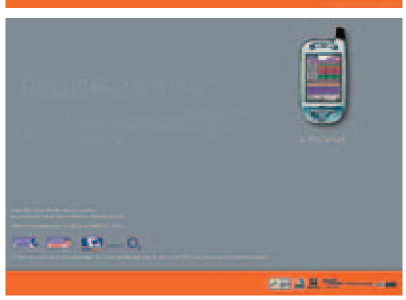
Campaigns that fell foul of the FSA

PICTURE: ADVERTISINGARCHIVES.CO.UK

AXA Sun Life

The FSA slapped a record £500,000 fine on AXA Sun Life in December 2004 for a campaign backing its with-profits endowment assurance policy, the Bonus Cash Builder Plus Plan (BCB) and a life policy, the Guaranteed Over 50 Plan (GO50). The ads, featuring Carol Smillie and June Whitfield, ran between February 2002 and January 2004. The BCB ads contained inaccurate data in a chart comparing its benefits with a building society account. AXA discovered the error in April 2003 and rectified it, but failed to notify the FSA until November 2003. The FSA criticised AXA for not giving enough information on how the policies worked. It also said the ads focused on the benefits, not the risks.





Cantor Index

Spread-betting firm Cantor Index ran a campaign in 2004 across TV, press, posters and flyers, all of which prominently promised a 'Free Xda' handheld PC to people who signed up to its Cantor Mobile spread-betting service. The device, which was being offered in a tie-up with O_2, was a tantalising incentive. The FSA regarded it as being dangerously so, especially for less experienced investors who might not have been aware of the risks of spread betting. Cantor Index was fined £70,000 for the misdemeanour.

financial rules

The FSA counters that it is merely protecting consumers, and has no agenda to stifle marketing. 'Financial promotions are an area of great concern to us, because it is an area of such high risk to consumers. An unrealistic impression gained from a promotion can be extremely dangerous, especially with a high-risk investment. A firm should be able to market its products, but never at the expense of consumer protection,' says senior spokesman David Whitely.

'We are not being unreasonable. We are just saying anything that mentions a potential return should be balanced by a mention of the potential risk. We understand marketing is about persuasion, we just want it to be the right kind of persuasion.'

In fact, since it beefed up its resources to investigate and castigate financial advertisers in April 2004, the FSA has hardly been imposing a prodigious number of fines. Although it has investigated about 400 cases, it has pursued just 60, with most resulting in a private warning. Only six companies have been fined, most notably AXA Sun Life, which received a £500,000 penalty for including misleading statements in a campaign that ran between 2002 and 2004 (see panel below). This penalty was by far the biggest; the others ranged from £35,000 to £70,000, with the transgressors including Cantor Index and City Index.

So what has been the effect of the FSA's tougher stance? At first glance, data supplied by Nielsen does not paint a picture of financial services advertisers running away in panic. Although some observers claim radio has been particularly badly affected due to advertisers having been deterred by lengthy 'wealth warnings' requirements, the figures do not support this view.

'Advertisers are having to buy twice as much space just so that half of it can contain negative messages'

Lucian Camp
CCHM:Ping

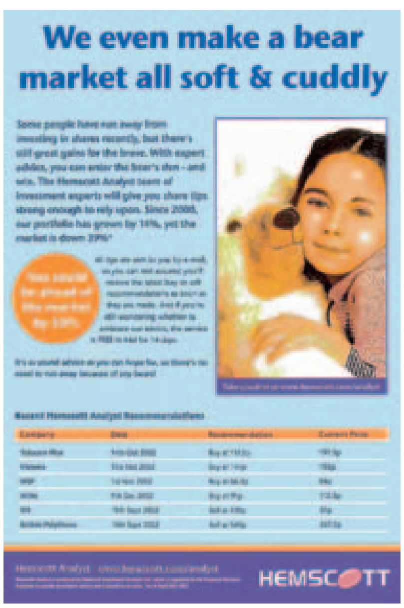
Between November 2004 and March 2005, which covers the period since the new regulations came into force, radio spend by financial advertisers rose 17.6% year on year, with their spend on all media up by 1.5%. Some sectors have, admittedly, drastically cut radio spend, such as unit trusts (down 100%), but others, such as pensions and plastic cards, have hiked it by more than 200%.

Positive effect

Lynne Springett, marketplace and PR manager for the Radio Advertising Bureau, argues that the FSA rules have, if anything, made advertising on radio easier. 'The changes have not had a detrimental effect. In fact, some of the requirements have been simplified,' she says. 'In many cases complex wealth warnings are not required and we have been working with advertisers to help them understand what they do need and, more importantly, don't need, to include in their radio ads.'

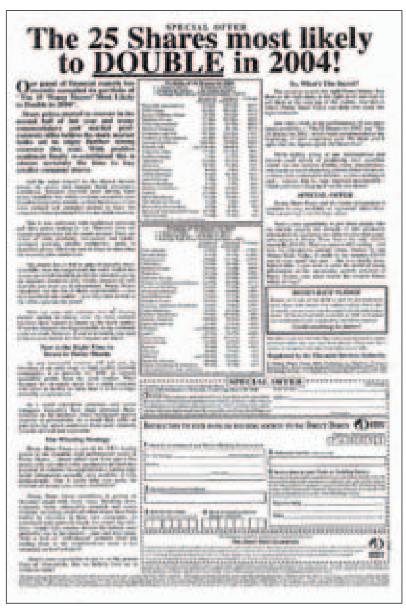
Online advertising by financial brands has not been overly affected either, according to Nielsen//NetRatings. There were 142 web campaigns for investment products in April 2005, up from 76 in April 2003. Campaigns for loans and mortgages have remained stable, although there were half as many credit card campaigns in April 2005 compared with April 2003.

Press ads, which one might assume would have been hit hard because of the extra space needed for the inclusion of risk warnings, have not been obviously affected. Adspend for general investment schemes has either stayed stable or increased, according to Nielsen. In March 2005, £3.8m was spent



Hemscott

In January 2005, the FSA fined investments firm Hemscott £50,000 for a promotion using the strapline 'We even make a bear market all soft & cuddly'. The FSA took issue with the execution, which featured a photo of a child cuddling a bear, for failing to present a balanced view of the risks entailed in playing the financial markets. The promotion was also castigated for mentioning only selective investment recommendations that had been made by the firm in the past, thus giving a distorted view of its track record.



Highbury Financial Services

In March, the FSA fined share-tipping company Highbury Financial Services £35,000 for the publication of a promotion under the dubious tagline 'The 25 shares most likely to double in 2004'. The national press campaign failed to make clear mention of the risks involved in share dealing and also included false statements about the share tips, claiming that they were supported by information from 'a panel of financial experts' and 'secret tip-offs'.