

RADIO AUTHORITY'S PROGRAMME CODE: CONSULTATION ON PROPOSED PARAGRAPH 5.7

Promotion of Investment Activity: November 2001

In April 2001, Paragraph 5.7 *Programmes Giving Financial Advice* of the Radio Authority Programme Code was deleted. As mentioned in a Radio Authority update at that time, further guidance was likely to be inserted (as Paragraph 5.7) to reflect the requirements of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001.

The Financial Promotion Order (FPO) sets out approximately 60 exemptions from the restriction in the Financial Services and Markets Act that financial promotions must be communicated or approved by an authorised person. Article 20 of the FPO details one of them, "Communications by journalists", which affects programming. However, the Article also includes the requirement that anyone "acting in the capacity of a journalist", who makes a financial promotion, discloses his or her interest. HM Treasury has offered regulators the opportunity to seek exemption from this requirement if it is similarly reflected in their own codes and they are able to enforce it effectively. The sanctions available to the Radio Authority, together with its procedures and the following proposed Programme Code Rule, have been recognised as offering such equivalence:

5.7 Promotion of Investment Activity

Transparency of any personal interest, where the individual has potential to gain financially from the promotion of investment activity, is paramount. Therefore, anyone involved in deciding the content of financial programming (including expert guests), who may benefit from the broadcast of material that promotes investment in a particular share, must disclose his or her interest in such a share on air at the time of broadcast. Such personal benefit and interest extends to that of close family members: a spouse and children under 18 years of age.

Any clearly identified chief executive, director or employee of a company, who appears in that capacity, may speak about the company, provided he/she is not doing so as part of an organised marketing campaign.

Journalists and expert guests are allowed to discuss financial products or services. However, licensees are reminded that only legitimate and objective coverage of a commercial product or service in programme editorial is acceptable (see Section 1 Rule 2 Produce Placement and Undue Prominence of the Radio Authority Advertising and Sponsorship Code).

The adoption of this Rule enables the Radio Authority to secure its position as the primary regulator of financially-oriented programming output on commercial radio and avoid the possibility of both the criminal prosecution of 'journalists' who make financial promotions in such output (with associated penalties of fines up to £5,000 and imprisonment up to 6 months) and double jeopardy.

As required by Section 93 of the Broadcasting Act 1990, the Radio Authority is seeking views on this revision to the Radio Authority Programme Code. The draft (within this document) is also available on the Authority's website at www.radioauthority.org.uk and additional single paper copies are available on request from our Programming and Advertising Department on **020 7887 4328**.

Replies should be sent either via email, to prog&ad@radioauthority.org.uk, or by letter or fax to David Burkin, Advertising Officer, at the Radio Authority, Holbrook House, 14 Great Queen Street, London WC2B 5DG, fax number 020 7405 7062.

Responses are welcome until the consultation closes on **Friday 23 November 2001**. In the interests of transparency, we would like to be able to make comments public where necessary, so unless there are good reasons for requesting confidentiality in relation to all or part of a response, the replies to this consultation will be made available for public scrutiny.

David Burkin
Advertising Officer

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