



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Lord Lee
House of Lords
SW1A 0PW
via Email

8th September 2021

Dear *John*

I am writing in reply to your letter to Lord Agnew, following his answer to your Parliamentary Question, and as the Treasury minister with policy responsibility for financial services regulation and the Financial Conduct Authority.

First, I would like to apologise if the answer to your written Parliamentary Question in any way caused you offence. It was not the Government's intention to do so. Answers to Parliamentary Questions are by necessity short and given the wide range of issues your question touched upon; we were not able to provide you with much background on the issues that your question raised. I can however provide you with a more substantive response in this letter and I am aware my private office has been in touch to organise an opportunity to discuss further.

In your letter to Lord Agnew, you asked whether the FCA's rules – or indeed whether legislation – restricts the provision of television programmes on financial issues such as investment or the stock market.

The relevant areas of regulation on this matter rules are the Market Abuse Regulation (MAR), and the Financial Services and Markets Act 2000 (FSMA). My officials have reviewed these in light of your letter, and in the case of the broadcasting of educational or generally informative programmes on markets and financial instruments, we do not believe that the MAR or FSMA regimes prevent or unreasonably deter broadcasters or journalists from making such programmes.

Financial journalism has an important part to play in disseminating information, and in increasing consumer awareness of financial services and products. Therefore, the media benefits from broad exemptions from the disclosure and transparency obligations in MAR and FSMA. MAR does require those making investment recommendations to take reasonable care to ensure that financial information is presented objectively, and to disclose any conflicts of interest pertaining to the information or recommendation being presented. When produced by broadcasters, such recommendations would have to directly propose a particular investment decision before they would be subject to these requirements. The Regulation also empowers the FCA to create transparency requirements relating to the making of recommendations to buy or sell specific financial

instruments by people and firms whose main business is making such recommendations. However, journalists are generally exempt from these detailed requirements, and subject instead to Ofcom's rules in this area.

Similarly, the FSMA regime does not present a barrier to broadcasters providing financial educational material. Under FSMA, communications which invite or induce consumers to engage in financial services activity (also known as 'financial promotions') normally have to be carried out or approved by a person regulated by the FCA. However, there are exemptions available that enable journalists to write or broadcast about financial services and products without having to comply with FCA regulations. If a journalist makes a particular recommendation about certain providers or specific types of investments or otherwise stands to make a financial gain himself, then additional safeguards have to be put in place. The intention is to enable journalists to report about financial services, including as a matter of financial education, whilst balancing the need for consumer protection. In my mind it is vital there are appropriate protections in place to ensure that consumers can take informed investment decisions, but also that it is clear when they are being provided a promotion as opposed to objective analysis.

FSMA also prohibits individuals or firms not regulated by the FCA, or another professional body, from advising on investments. However, in this context, 'advising on investments' must concern a particular investment, for example shares in a named company. A person who gives only generic or general advice, for example on classes of investments, or on principles of financial planning, will not be subject to FCA regulation. Even if advice is more specific, and thus potentially subject to regulation, there is an exemption for advice given by the media, including television broadcasts, that applies if the main purpose of the broadcast is not to provide specific investment recommendations, or to lead viewers to buy into an investment.

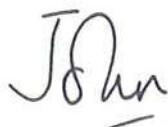
Finally, you will appreciate that my department is not responsible for Ofcom. However, I can tell you that as regards the rules and standards Ofcom expects of broadcasters when making financial programming, Ofcom's rules require that if a person directly recommends a particular investment decision, such as buying a share in a named company, the recommendation must be presented fairly by, for example, clearly distinguishing matters of fact from opinion, and any financial interest impairing the objectivity of the recommendation must be disclosed.

More broadly, the Government has a policy of promoting financial education generally, and as part of that, ensure that retail investors sufficiently understand markets and the financial products available to them. As part of that agenda, in January 2019, the Government established the Money and Pensions Service (MaPS), merging the three former organisations providing free-to-use financial guidance (the Money Advice Service (MAS), The Pensions Advisory Service (TPAS) and Pension Wise), to simplify the existing public financial guidance landscape and offer more holistic support to consumers. MaPS offers consumers comprehensive, consistent, guidance for every stage of their financial lives, including issues around everyday money, investments and later-life planning through a variety of channels including through their new consumer facing brand MoneyHelper.

I read with interest your article in the Financial Times – and while the issue between advertising of gambling versus financial services & instruments is a thought provoking one, my primary focus remains protecting the consumer and improving financial education, as such I remain unconvinced that the current regulations are the primary block. I hope that this letter better outlines mine and the Government's view with regards to regulations covering the promotion of financial investments and television.

Thank you once again for your engagement on these issues, I look forward to meeting with you to discuss further. I also note the recent launch of the Financial Times financial literacy and inclusion campaign – a worthy cause that I'm sure we will both support from our respective roles.

with very best regards

A handwritten signature in black ink that reads "John". The letter "J" is large and stylized, with a horizontal line underneath it. The "o" is a simple circle, and the "n" is a simple vertical stroke with a small hook at the bottom.

JOHN GLEN