

21 September 2022

Consumer Duty: Products and Services Outcome.





Competition Law Do's and Don'ts



DO NOT

- Discuss individual company prices, price changes, terms of sale and profit margins.
- Discuss information as to future plans of individual companies, production, distribution or marketing plans, including proposed new territories or customers.
- Discuss matters relating to individual suppliers or customers or any commercially sensitive information.

BE WARY

YOU MUST SEEK ADVICE IF:

You receive information from another competitor, or are asked to provide information, that you believe is confidential or commercially sensitive.

ALWAYS:

- Ensure a detailed agenda is circulated in advance and are followed closely and minutes of the meeting are recorded and kept.
- Begin the meeting with the reminder that the attendees should not discuss commercially sensitive information under any circumstances.
- Be prepared to halt a meeting if conversations cross into potentially unlawful territory.

NO PROBLEM

- Discussion on any matter relating to the aims and objectives of the committee for example issues of law and policy affecting the industry.
- Discussing BVRLA policies, lobbying tactics & strategies, and other BVRLA activities.
- Discussing information about industry activities obtained from third parties or other media sources provided the availability of the information has not been arranged with a competitor.
- Discussion with other trade bodies or organisations which will be of general benefit to the industry.







- 1. An overview of the governance of Product & Service outcome and what is required.
 - a) How do firms ensure products and services are fit for purpose.
 - b) Duties of Manufacturer and Distributor to deliver on this outcome and communications.
- 2. Richard Chadwick: View from a funder on approaching this outcome.
- 3. Data, monitoring and market assessment.
 - a) Content of your products and services assessment.
- 1. Key takeaways and actions for implementation plan.

All images used in this presentation have been obtained from Auxillias Ltd or will specify the source or, where not specified, from Google Images.





Do you know how to assess whether your services are fit for purpose and represent fair value to Consumer?

- 1. I know what the regulations are and I have all of the information available to help me make this assessment.
- 2. I know what the regulations are but need help to understand and apply them to my business.



I don't know what the regulations are and I don't know who to speak to in my distribution chain.

Section 1: An overview of the governance of Products and Services.



Picture sourced from: 3 Secrets to Ensure Successful (and Profitable) Client Meetings (cpapracticeadvisor.com)

Overview Governance of Products and Services

Products and services sold to consumers should be:

- fit for purpose
- designed to meet consumers' needs
- targeted at the consumer whose needs they are designed to meet.

Firms must:

- Ensure that products and services are designed to represent fair value to different groups of customers.
- Take appropriate action where a value assessment identifies the price of the product or service does not provide fair value.
- Design products with clear and straight-forward features so they can be understood by consumers in the target market.



- Not charge unreasonable exit fees.
- Meet the needs of consumers within their target market.
- Ensure that the products are being distributed to their target market.
- Test how products are likely to function.

Definition of Manufacturer and Distributor

Manufacturer :

A firm which creates, develops, issues, and/or designs products (e.g. the lender or platform owner/designer).

Distributor:

Firms are distributors if they offer, sell, recommend, advise on, arrange, deal, propose, or provide a product or service, including at renewal (e.g. the broker).

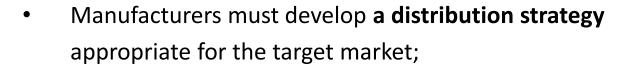
The concepts are deliberately broad to capture all aspects of the manufacture and distribution of products and services.



Products and Services: Overview for Manufacturers.

Manufacturer firms obligations under this outcome:

- Manufacturers must approve existing products or services and regularly review the product approval process
- Identify the target market at a granular level considering characteristics, risk profile, complexity and nature of the product and services
- Manufacturers must consider customers with characteristics of vulnerability in its target market;



Picture sourced from: How To Buy A New Car & Get A Great Deal | Bankrate

- Firms are required to make information available to distributors
- The FCA provide examples of good and poor practices
- **Guidance for distributors** is also provided



Manufacturers

The Manufacturer is not required to:-

- review the needs, characteristics and objectives of individual customers,
- **to track** potential vulnerability for each customer.
- **to monitor** the diverse needs of each customer.

Instead, the FCA expect that they will:

- design products or services to take account of the needs, characteristics and objectives of all groups within the target market.
- consider whether a product or service has features that could risk harm for any group of customers, including those with characteristics of vulnerability.

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Duty to provide information to Distributors

Manufacturers must make all appropriate information available to distributors to:

- understand the characteristics of the product or service
- understand the identified target market
- consider the needs, characteristics and objectives of any customers with characteristics of vulnerability
- identify the intended distribution strategy
- ensure the product or service will be distributed in accordance with the target market

<u>Remember</u>: Firms are distributors if they offer, sell, recommend, advise on, arrange, deal, propose, or provide a product or service, including at renewal.





Products and Services: The Target Market Assessment

Picture sourced from: <u>6 Regulations For Healthcare</u> Conferences | Lane End (lane-end-conferences.co.uk)

- Firms are required to carry out a full assessment of their products and services and document this assessment.
- As part of this review, firms will need to consider the needs, characteristics and objectives of customers in their target market including additional or different needs, characteristics and objectives to include characteristics of vulnerability.
- Products and Services must **meet** the identified needs, characteristics and objectives of customers in the identified target market and **be tested**.
- When an **issue is identified** with a product or service, appropriate action must be taken to mitigate the situation and prevent further harm from occurring.
- When addressing an identified issue, this could start by **amending their communications**, testing consumer understanding and monitoring outcomes before trying other actions.



Vulnerability Assessment

How to identify the needs of customers with characteristics of vulnerability in the target market?

- Hold focus groups with customers with characteristics of vulnerability or consumer representatives at the development stage
- Exploring resources provided from, and consulting with, specialist organisations offering information on how the needs of customers with characteristics of vulnerability can be met in the design stage.
- Consulting with customers or representative groups when seeking to alter or withdraw a product.
- **Employing third-sector organisations** who can review products from the viewpoint of customers with characteristics of vulnerability.





Products and Services: Overview for distributors

- The **Distributor arrangements** must:
 - avoid causing and mitigate foreseeable harm to customers.
 - support management of **conflicts of interest.**
 - Ensure the **needs, characteristics and** objectives of the target market are taken into account.
- Firms should not **incentivise** staff to recommend a particular product or service when an alternative would better meet a customer's needs.
- Distributors must understand the products or services they distribute.
- Firms distributing products or services that were not created by a firm subject to the rules for Manufacturers should comply with the products and services outcome.
- A distributor should identify or create a distribution strategy.





Products and Services: Sharing information

Picture sourced from: What is the new FCA Consumer Duty? | Financial Services - BDO

A list of questions that Manufacturers could ask Distributors:

- Are there any issues identified by the distributor in relation to the target market assessment?
- Are there any issues identified by the distributor in their review of distribution arrangements for a product or service?
- Have any issues been identified by, or for, customers with **characteristics of vulnerability**? What are they at a high level (not identifying individual customers)?
- Have any **sales outside the target market** been identified in the distributor review? In what way are they outside the target market? What harm is foreseeable?
- If a manufacturer judges a product should generally be held for at least five years, and where the firm lacks oversight of the full distribution chain or end customers, it could ask **what proportion of customers** hold the product for less than one year, or more than one year but less than five?

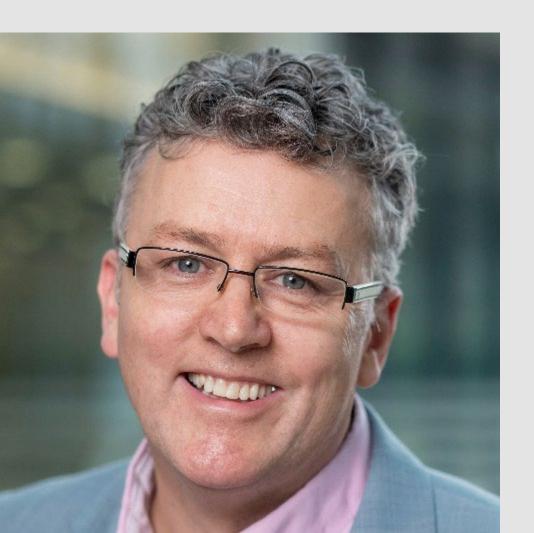


Richard Chadwick Head of Alphabet Partner, Indirect Sales.



Picture sourced from: https://unsplash.com/photos/2B89G7ZHYMQ

Reflection



- Brokers must comply with the Consumer Duty;
- Funders to provide Brokers with the relevant information and in time;
- Deals are fit for purpose;
- Annual review: less sales focused;
- Read the guidance!
- Dedicate resource and time and start.

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Ongoing Monitoring and Building the Assessment

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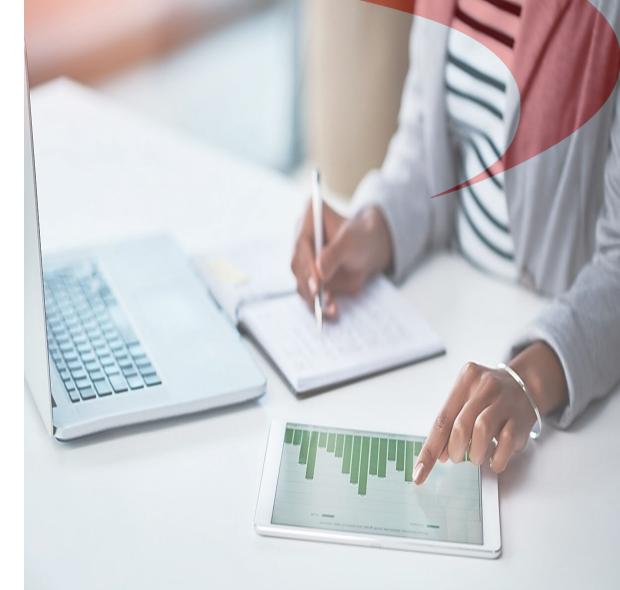


Picture sourced from: https://www.spyglassmtg.com/blog/governance-and-monitoring-for-power-automate

Data and Monitoring

The types of data/ monitoring firms could consider:

- sales information and information on business persistency
- **customer** feedback
- **complaints received** about the product or service, and the results of **root-cause** analysis of those complaints
- analysis of whether the product or service functions as expected at outset, including whether customers use product or service features as expected
- where appropriate, consumer research, such as focus groups or new testing





Data and Monitoring

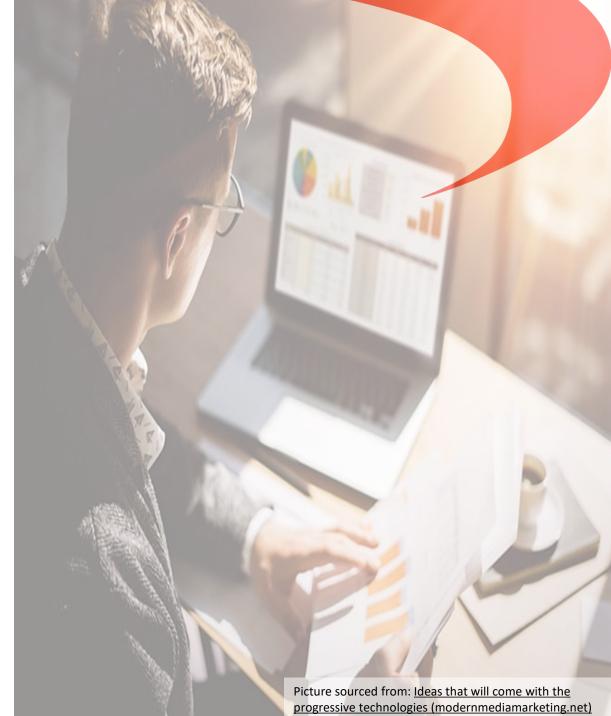
Firms must take appropriate action to mitigate the situation and prevent further harm from occurring. Where appropriate, they must inform other firms in the distribution chain about their actions.

Example of actions could be:

- Making **changes** to a product or service.
- Providing **additional information** to distributors or customers.
- Amending the distribution strategy before making further sales.
- Offering existing customers the option to leave the product or service without additional cost.
- Providing **appropriate mitigation** of any harm suffered.

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Products and Services Outcome: FCA Questions to build into your assessment.

Picture sourced from: Sales Meeting Agenda Templates (meetingbooster.com)

These are:

- Has the firm **specified the target market** of its products and services to the level of **granularity** necessary?
- How has the firm satisfied itself that its products and services are well **designed** to **meet the needs of consumers** in the target market, and perform **as expected**? What testing has been conducted?
- How has the firm identified if the product or service has features that could risk harm for groups of customers with characteristics of vulnerability? What changes to the design of its products and services is it making as a result?
- Is the firm **sharing** all necessary information with **other firms in the distribution chain**, and receiving all necessary information itself?



Products and Services Outcome: FCA Questions to build into your assessment.

Picture sourced from: Sales Meeting Agenda Templates (meetingbooster.com)

These are:

- How is the firm **monitoring** that distribution **strategies** are being followed and that products and services are being **correctly distributed** to the target market?
- What data and management information is the firm using to monitor whether products and services continue to meet the needs of customers and contribute to good consumer outcomes? How regularly is it reviewing this data and what action is being taken as a result?
- Where the firm **is planning to withdraw** a product or service from the market, has the firm **considered** whether this could **lead to foreseeable harm**? What **action** is it taking to **mitigate** this risk?



Evidence of your

assessments

Areas to include:

- detail your product approval process
- where more than one firm is involved in manufacturing a product or service, a copy of the written agreement
- records of the target market assessment
- records of the firm's product or service testing, including a record of scenario analysis
- records of information provided to distributors
- records of any reviews of the product or service, including in relation to action taken to address any identified issues
- records of the firm's oversight and control arrangements
- copies of any compliance reports





Key Takeaways



Key Considerations

- How will **you enhance your product review process** to demonstrate an **effective review** has taken place to ensure the product delivers **good customer outcomes**?
- Who will do your assessments internally and how will **senior management** oversee this?
- Are you a Manufacturer, a Distributor or both?
- What data will you need to collect to demonstrate that your products continue to provide good customer outcomes?





Key Considerations

- For **Manufacturers** What arrangements will you put ٠ in place to ensure distributors will use your products as intended?
- For **Distributors** How will you demonstrate you have • selected appropriate products from manufacturers and what arrangements have you in place with your Manufacturers to share information?



Picture sourced from: New Links Training Solutions - In-Company Training



Implementation Plan Takeaways: Products and Value

Action	Business Type	Phase
Decide if you are a 'manufacturers' or 'distributors' of products or services for retail customers.	All	Phase 2
If you are a manufacturer, you must undertake a product approval process which establishes the target market and intended distribution strategy including how you will account for vulnerable customers in the product design process. Equally, you will need to consider how these rules for this outcome are applied in line with the cross-cutting rules touched on earlier sessions.	Funder	Phase 2
Where more than one firm is a manufacturer - enter into a 'co-manufacturer' agreement with the other manufacturer to set out the apportionment of responsibilities as 'manufacturers' of the product. This will include a review of arrangement with third parties to understand whether these are fit for purpose, and what amendments may be needed (extended MI for example).	Funder	Phase 2

Implementation Plan Takeaways: Products and Value

Action	Business Type	Phase
If you are a distributor, you will be required to get information from the manufacturer on the target market and distribution strategy, develop distribution arrangements that are appropriate for such services or products and regularly review these.	Broker	Phase 2
Both manufacturers and distributors need to review their existing distribution arrangements – particularly where there is a chain of several distributors - to understand if they need further information from other parties in order to feed into their annual review of products (e.g. to understand if they are working as intended or if they are causing any customer harms).	All	Phase 2
Distributors are expected where they are distributing a product or service for an out- of-scope manufacturer – to take 'all' reasonable steps to comply with these obligations. This is a very high standard and is no longer compatible with the 'reasonable steps' standard that the FCA has used for those cross-cutting rules.	Broker	Phase 2

Question and Answer Session.





Joanne Davis Director, Auxillias





Webinar 3: Price and Value

26th September 2022 10am-11:30am

- 1. What are the rules and how do they apply?
- 2. The value chain and the roles and responsibilities of firms in the Distribution Chain.
- 3. Helen Quinn, PPL Ltd: What does good look like? The BVRLA Governance Programme.
- 4. Carrying out a Fair Value Assessment.

•What Fair Value means for Funders and Leasing Brokers.

- 5. Monitoring requirements
- 6. Key Takeaways and actions for the Implementation Plan.





Picture sourced from: Is below-prime vehicle finance a good deal? | Citypress (news24.com)