

Full title of law or regulation

Bank of Spain Circular 4/2020 of June 26 on advertising of banking services and products. In force October 15, 2020.

<https://www.boe.es/eli/es/cir/2020/06/26/4>

Notes:

- The translation was not prepared by legal translators and should be treated as broadly correct but not legally definitive
- The original Spanish is anyway the only true and applicable source of the rules
- Credit advertising should be reviewed with legal advisors
- The annex needs to be seen in the context of the full Circular

Title of relevant section

Annex: Principles and criteria with which the advertising activity on banking products and services must comply

I. General principles with which advertising must comply

1. Advertising on banking products and services will be clear, balanced, objective and not misleading. To this end, companies will use simple and easy-to-understand language, will avoid the inclusion of ambiguous, biased, incomplete or contradictory information, which may lead to confusion, and will not omit or hide information necessary for the recipient to adopt or be able to adopt a decision regarding his economic behavior with due knowledge of the facts. In commercial communications and advertising executions subject to the provisions of this circular, the advertising nature of the message must be unequivocally disclosed, when it is not evident from the context.
 2. The banking products and services offered will be clearly distinguished, and the use of words or expressions that may generate doubts about their nature and characteristics or about the risks associated with their contracting will be avoided. When the commercial name of the product or service offered, or its framing within the advertising offer of the company, may mislead about the legal nature of the operation, it must be expressly clarified. Equally, when the simultaneous offering of two or more different products is made, the different characteristics of one and the other must be clearly stated.
 3. Commercial communications and advertising executions that provide information on the cost or profitability/ return of the banking product or service for the consumer must contain clear, exact and updated information on its essential characteristics, in a manner appropriate to the nature and complexity of the banking product or service offered, the characteristics of the means of dissemination used and the target audience to which they are addressed, so that the recipient can make an informed buying decision.
 4. When the means of communication or the advertising format used imposes space or time limitations, referral to alternative sources of information must not mislead the recipient about the characteristics of the product or service offered, nor bring about economic behavior that presumably he would not have adopted had he known all the detailed information for sufficient commercial understanding.
 5. The advertising messages and the way of presenting them will be adapted to the characteristics of the group to which they are addressed, promoting a thorough understanding of the advertising execution and avoiding attraction devices that are manifestly incompatible with the protection of the interests of said group. In any case, the advertising message will not create false impressions or expectations that, in any way, act as an incentive to acquire the product or service offered or may create an appearance different from reality on the characteristics or duration of the advertised offer.
 6. When messages of a secondary or less prominent nature are included in the advertising execution, they may not contradict the content of the main message or limit it in a fundamental way. In any case, the clarifications or legal warnings about the banking products or services offered included in the advertising message (for example,
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about their risks, conditions that affect their cost or profitability for the public, or requirements for their enactment) will have a format, position and relevance so that they are easily perceived by the recipient, and their existence will be highlighted with notes/ overlays at the same level of the text or with messages highlighted in the main communication.

7. The inclusion in the advertising message of superlative or diminutive adjectives (*smaller, smallest, lowest etc.*), or of expressions that indicate dominance, advantage or leadership of the advertiser or of the product or service, must be substantiated in the case of comparative advertising and otherwise avoided; especially, when dealing with messages related to the cost or performance of the banking product or service offered.

Without prejudice to the provisions of Law 3/1991 of January 10 on Unfair Competition, in the case of comparative advertising the compared banking products or services will have the same purpose or will satisfy the same needs, and the comparison will be made objectively between one or more of its essential characteristics, which must be relevant, verifiable and representative. In any event, the assumptions on which the comparison is based will be detailed in the advertising execution, without omitting relevant data or facts, and the sources deployed will be expressly stated.

II. Advertising message format

1. The format and presentation of the advertising message (in particular, the typography, the colour and the background contrast) will be appropriate for the means of dissemination used, such that it will be read comfortably and completely.
2. The typeface and fonts used in the advertising message, including those used in legal clarifications or warnings, will be easily legible and will stand out from the background. Avoid using overly ornate fonts or ornaments (reliefs, etc.) that makes reading them difficult.
3. The minimum font size (in particular, that used in clarifications or legal warnings) will be determined based on the advertising format used and the average distance at which the recipient is expected to read the text, trying to ensure, in any event, its easy reading and understanding. By way of example, in the layout of advertising executions a font size will be used whose equivalence in millimetres respects the following indicative table

Distance	Type of advertising	Min. font size
Less than 0.5 meters	Printed press, brochures, advertising direct (personalised letters, email marketing, etc.), advertising over the Internet and mobile devices (advertising videos, newsletters, banners, etc.)	1.5 mm
Between 1 and 3.6 metres	Advertising in audiovisual media (television), advertising point of sale (indoor and outdoor signage, exhibitors, etc.).	5 mm
Between 3.6 and 12 metres	Outdoor advertising (street furniture, public transport, etc.).	10 mm
Over 12 metres	Advertising in cinema and larger outdoor advertising (billboards and tarps).	100mm

III. Content of the advertising message

1. **General criteria**
 - 1.1. The use of acronyms or trademarks of the companies in the advertising of banking products or services must allow their unquestionable identification. Otherwise, they will be accompanied by their registration name.
 - 1.2. When one company advertises the products or banking services of another, it must be clearly distinguished which company provides the services and which company acts as a mere marketer or distributor of the former's products and services. The responsibility for the omission of this information in the advertising execution will fall on the company that acts as a marketer or distributor. Likewise, when agents of the company or third parties, such as credit intermediaries, participate in the marketing of banking products and services, the role that they play will be expressly indicated in the advertising

execution, and it will be the company's responsibility to ensure compliance with the requirements and obligations established in this circular.

- 1.3. When an offer has a specified term, this will be expressly stated. If the term of validity is conditional on any other variable (reaching a certain volume, existence of a limited number of products, etc.), this condition must be stated in the body of the main message, with the appropriate prominence. The absence of a term in the advertising message will allow the current offer to be considered to all intents and purposes to be in force / available during the running of the campaign or advertising execution in question.
 - 1.4. If the advertising message refers to the advantages of a certain tax treatment, it must be clarified whether this is of a general nature or depends on the personal situation of the client or potential client, and it will be advised, in any event, that said treatment may be subject to change.
 - 1.5. Referring to the term "gift" or any other equivalent term will be avoided in those cases in which there may be a tax impact for the delivery of a good or a sum of money as an incentive for acquiring a banking product or service, particularly in all those operations where the tax regulations qualify as remuneration in kind.
 2. [Information on the cost or profitability of the banking product or service. Inclusion of the equivalent annual rate \(APR\) in the advertising message.](#)
 - 2.1. All quantitative information on the cost or profitability of the banking product or service included in the advertising message must expressly indicate the period to which it refers. When two or more quantities are included, they must refer to the same period. In particular, information on past performance should not be provided in a partial or biased way, or on periods of less than twelve months. Multiannual profitability must be expressed in terms of revaluation, without prejudice to the fact that the APR is added to this information in cases where it should be included. When a reference to the maximum variation that a certain index or price has had within a certain period is included, it must be completed with the data corresponding to the variation - positive or negative - of said index or price, for which they will be taken as reference their values at the start and end dates of the same period. Similarly, the conditions or requirements to which, where appropriate, said cost or profitability are affected, or the variables on which its development may depend must be stated explicitly, clearly and unequivocally, with callouts/ references highlighted to the same prominence as the text or messages in the main message.
 - 2.2. When information related to the cost of the banking product or service is included, the advertising message must reference, in any event, to commissions, taxes and any other type of expenses that the client must pay for its procurement or maintenance, as well as, in the case of credit, interest and the cost of ancillary services whose contracting is mandatory to obtain the credit or to obtain it under the conditions offered, in particular the insurance premiums.
 - 2.3. In advertising executions on deposits or credits in which an interest rate or any figures are stated, such as commissions or applicable expenses, or of in any other way, reference is made to its cost or profitability for the public, the advertising message must express said cost or profitability in terms of APR, using a specific representative example clearly, concisely and prominently. For the calculation of the APR, the specific rules and criteria established for this purpose in the regulations applicable to the type of banking product or service in question will be taken into account.
 - 2.4. The information on the annual nominal interest rate (TIN) applicable to the operation and on the other elements that make up the APR will be included in a way that does not generate confusion regarding the different nature and deployment of the latter. In particular, when the APR may be altered by certain circumstances (for example, the existence of a fixed interest rate for a certain initial period, commissions, or other causes), the representative example will make express mention of such circumstances
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and to the significant interval in which it can move.

- 2.5. When the advertising execution is required to include the APR in accordance with the provisions of the applicable regulations, relevance will be given to the TIN, such that it attracts consumer attention.
- 2.6. In the case of procedures that are at a variable interest rate, the expression APR will be replaced by that of APRVariable and the applicable reference base and the period of the review must be stated in the advertising execution, with adequate prominence and clarity. The information on the reference base and the calculation of the Variable APR must be periodically updated according to the latest available data, with a deadline maximum of three months in the case of printed media and support media, and within the following 48 hours in the case of advertising executions disseminated through digital media. In these cases, the representative example will expressly include the caveat that Variable APR has been calculated under the assumption that the benchmark indices do not vary and, therefore, it will vary with interest rate revisions. When limits are established to the variation of the interest rate, said limits will be stated in the advertising execution in a relevant way. Likewise, they will be taken into account for the calculation of the Variable APR, and this circumstance will be expressly advised in the representative example.
- 2.7. In the advertising executions on deposits or credits without interest that are subject to commissions or other expenses, in addition to detailing said commissions and expenses, It will include the expression "without interest" or similar next to the resulting APR, which will be especially highlighted in the advertising message, so that the recipient sufficiently understands the cost of the deposit or credit.
- 2.8. When there is remuneration in kind, the advertising execution must be adapted to the following criteria:
 - a) If there is no cash remuneration, this circumstance must be expressly stated.
 - b) The valuation of the product for the purposes of calculating the APR must be the one that is in accordance with tax legislation.
 - c) Both compensation in cash - if any - and compensation in kind must be taken into account when calculating the APR.
 - d) It must be expressly stated that the remuneration in kind is subject to taxation.
 - e) In the event that certain amounts - such as VAT or deposit on account - must be paid by the customer, explicit mention of this situation will be made and It will reflect the quantification of such amounts, taking them into account for the purposes of calculating the APR.

3. [Minimum content required in financing offers that include information related to its cost to the public.](#)

In commercial communications and advertising executions subject to the provisions of this circular by means of which a credit is offered, or the intermediation for the conclusion of a credit agreement, in which an interest rate or any figures are indicated, such as the applicable commissions or expenses, or in any other way their cost to the public is referred to, at least the following information will be included:

- a) The essential characteristics of the credit (nature, amount, TIN, commissions, total cost, amortization system, amount of payments and term for its return) and any other information required in the community, state or regional regulations that contain specific provisions in relation to the advertising of the type of financing in question. In particular, in the case of credits in the form of deferred payment of a good or service, in addition to the mandatory information related to credit, the purchase price in cash and the total price in installments will be prominently specified.
 - b) The APR, expressed through a representative example determined in accordance with the provisions of the applicable regulations. In particular, in loan contracts subject to
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the scope of Law 5/2019, of March 15, regulating real estate credit contracts, the representative example will be determined in accordance with the criteria established in letter d) of the Article 4.5 of Order EHA / 1718/2010, of June 11.

- c) In the case of credits denominated in foreign currency, a warning will be included regarding the fact that possible fluctuations in the exchange rate could affect the amount owed.
- 4. [Minimum content required in the offers of banking products and services, other than financing operations, in which related information is included with its cost or profitability for the public.](#)

In commercial communications and advertising executions subject to the provisions of this circular through which a banking product or service is offered, or the intermediation for contracting a banking product or service, other than financing operations, in which an interest rate or any figures are indicated, such as commissions or applicable expenses, or in any other way reference is made to its cost or profitability for the public, at least the following information will be included:

- a) The essential characteristics of the banking product or service (nature, cost or profitability, term, etc.). Where appropriate, it will be specified whether or not there is a right to early cancellation and, in such case, the applicable commissions or penalties, as well as any other information required in the community, state or regional regulations that contain specific provisions in relation to the advertising of the product or banking service in question.
- b) Where appropriate, the APR, expressed by means of a representative example determined in accordance with the provisions of the applicable regulations.
- c) Where appropriate, a reference to the Deposit Guarantee Fund to which the company is attached, when this is different from that provided for in the Royal Decree Law 16/2011, of October 14, which creates the Deposit Guarantee Fund for Credit Institutions.
- d) Where appropriate, the warning that profitability is subject to market fluctuations, without past costs or profitability conditioning or generating rights in the future. In these cases, it will be expressly indicated that said profitability could be null or even negative.
- e) In the case of products denominated in foreign currency, special mention will be made of the exchange rate risk.

[IV. Regime applicable to advertising broadcast through audiovisual or radio media](#)

- 1. [Advertising broadcast through audiovisual media.](#)
 - 1.1. The texts overprinted in the advertising executions disseminated through audiovisual media (in particular, those related to legal warnings - such as the risk warning or the alerts on liquidity and complexity, among others - or the representative example of the APR) must stay fixed on screen for the duration of its appearance.
 - 1.2. Notwithstanding the provisions of point III, sections 3 and 4, of this annex, in advertising executions broadcast through audiovisual media that involve a limit of space or time, such as advertisements in cinema or on television, at least the following information must be provided, spoken and/ or overprinted on screen:
 - a) A reference to the nature of the banking product or service in question and, where appropriate, the required legal warnings.
 - b) The information required in the community, state or regional regulations that contain specific provisions in relation to the advertising of the product or banking service in question.
 - c) Where appropriate, the TIN and the APR, expressed by means of a representative example determined in accordance with the provisions of the applicable regulations.
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- d) The banking commissions that, where appropriate, the recipient must pay for contracting and maintaining the banking product or service offered.
 - e) The address of an informative web page that contains all the relevant information about the banking product or service offered in accordance with the provisions of this circular, as well as, where appropriate, the possibility of obtaining more information from the company's office network or at other specific points of sale. This information will be communicated, in any event, in a spoken form. In these cases, companies may choose to include all or part of the said information at the end of the advertising execution, on a fixed screen, with an appropriate background contrast and for a sufficient time to be adequately observed by the viewer, which will not be less than three seconds,
2. Advertising broadcast through radio media.
- 2.1. In advertising executions broadcast through radio media in which information is provided on the cost or profitability of the banking product or service offered, the companies will provide, at least, the information provided in section 1.2 above.
 - 2.2. Where appropriate, in advertising on banking products and services issued through radio media, special attention will be drawn to the existence of an informative web page that will contain all the relevant information about the banking product or service offered in accordance with the provisions of this circular, as well as on the possibility of obtaining more information in the company's branch network or in other specific points of sale.
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V. Advertising in digital media and social networks

- 1. General criteria.
 - 1.1. Commercial communications in digital media and social networks that necessarily entail limitations of weight, formats, sizes or characters will be regulated for the provisions of this section without prejudice to the obligation of the companies to ensure that they comply with the general principles and criteria established in sections I and II of this annex.
 - 1.2. When the content of the advertising message is affected by the limitations set out in the previous section, so that it is not possible to include specific and complete information on the characteristics and risks of the offered banking products and services, provided that a type of interest or any figures, such as commissions or applicable expenses, or in any other way referring to the cost or profitability for the public of the banking product or service offered, at least the following information will be included:
 - a) The identity of the advertising company or, where appropriate, the credit intermediary or designated representative.
 - b) A reference to the nature of the banking product or service in question.
 - c) The APR, in the case of commercial communications on deposits or credits.
 - d) A link to a destination web page, specific to the offered banking product or service, which contains all the information required in accordance with the provisions of this circular and in the regulatory standards of the banking product or service in question. This information will be conveniently located on the main page of the destination web page, without the recipient having to take additional steps to access it, and it will be displayed according to the type of user device.
 - 1.3. In the cases provided for in the previous section, in the case of commercial communications on credits subject to the scope of Law 16/2011, of 24 June, of consumer credit contracts, or to Law 5/2019, of March 15, regulating real estate credit contracts, a simplified representative example will be additionally included, with the following format:

«TIN XX% Amount XX [eur, currency] Term XX [months, years] XX installments of XX [eur, currency] Total amount owed XX [eur, currency] [when applicable] Fulfillment conditions»
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In the case of credits in the form of deferred payment of a particular good or service, In addition, the following information will also be added:

"PVP XX [eur, currency] Total installment cost XX [eur, currency]"

- 1.4. The representative example provided in the previous section will be determined in accordance with the provisions of the applicable regulations. In particular, in contracts of Loans subject to the scope of Law 5/2019, of March 15, the criteria established in letter d) of article 4.5 of Order EHA / 1718/2010, of June 11, will be taken into account.
- 1.5. The link to the destination website provided for in section 1.2.d) above will stand out, whenever possible, from the rest of the text included in the advertising message by using different fonts or highlighting techniques. Likewise, the title of the link and its location within the advertising message will be designed in such a way as to attract the attention of the recipient and promote access to its content.

2. Advertising broadcast through digital media.

- 2.1. When advertising messages are disseminated on an Internet page through animated or interactive advertising executions, made up of several frames that repeat (dynamic banner, animated graphics interchange format, etc.), companies will ensure that the information required in section 1 above is kept fixed on the screen for no less than two seconds.

3. Advertising broadcast through social networks.

- 3.1. When commercial communications on social networks include images (graphic files, infographics, etc.), advertising videos (live videos, graphic animations, 360° video, etc.) or other visual, audio or audiovisual resources in order to overcome the character limitation intrinsic to publishing on these communication platforms, it will be expressly stated in the advertising message that they contain additional information relevant to the adequate understanding of the banking product or service offered, using expressions such as "click on the image to see the conditions of the offer" or similar formulae that promote recipient viewing. In these cases, as long as the content of the information disseminated through said resources fully respects the provisions of this circular, it will not be necessary to comply with the provisions of section 1.2.d) of this section.
 - 3.2. The company will be responsible for compliance with the provisions of this section, even if it has not generated the original content of the communication, when forwarding a text or content shared by a third party (in particular, a customer) that expressly endorses or highlights the benefits of a financial product or service marketed by the company.
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