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**DRAFT - GUIDANCE ON PRICE
INDICATIONS**

General guidance for traders

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DRAFT - Guidance for traders on price indications

Contents

Introduction

Definitions

Part 1: Price Comparisons

- 1.1 Price comparisons generally

- 1.2 Comparisons with traders' own previous price
 - General
 - Food, drink and perishable goods
 - Distance contracts
 - Factory outlets
 - Making a series of reductions
 - Comparisons with out-of-season prices

- 1.3 Introductory offers, "After-sale" or "After-promotion" prices
 - Introductory offers
 - Quoting a future price

- 1.4 Comparisons with prices related to different circumstances

- General
 - "When perfect" comparisons
 - Goods in a different state
 - Prices for special groups of people
- 1.5 Comparisons with another trader's prices
- 1.6 Comparisons with "Recommended Retail Price" or similar
- 1.7 Pre-printed prices
- 1.8 References to value or worth
- 1.9 Sales or special events
- 1.10 Free offers and similar promotions

Part 2: Actual Price to the Consumer

- 2.1 Indicating two different prices
- 2.2 Incomplete information and non-optional extras
- Prices related to particular sizes, etc.
 - Prices relating to different forms of products
 - Postage, packing and delivery charges
 - Prices in different currencies
 - Value Added Tax
 - i) Price indications to consumers
 - ii) Price indications to business customers
 - iii) Professional fees
 - iv) Building work

- Service, cover and minimum charges in hotels, restaurants and similar establishments
- Holiday and travel prices
- Sale of entertainment tickets
- Call-out charges
- Credit facilities
- Insurance

Part 3: Price indications which become misleading after they have been given

3.1 General

3.2 Newspaper and magazine advertisements

3.3 Mail order advertisements, catalogues, leaflets, websites and other similar advertisements

3.4 Selling through agents

- Holiday brochures and travel agents
- Insurance and independent intermediaries

3.5 Changes in the rate of value added tax

Part 4: Sale of homes

Introduction

1. This document aims at giving guidance to traders on good practice in the giving of price indications. It has no mandatory force – in particular, traders are not under any legal obligation to follow the practices recommended. The guidance takes account of the provisions contained in the Consumer Protection from Unfair Trading Regulations 2008 which are relevant to the giving of misleading price indications. Nevertheless adherence to the recommendations of this guidance will not of itself mean that a price indication does not breach those Regulations. And the guidance cannot be comprehensive in scope so as to address every circumstance which may arise in the giving of price indications. Equally in some respects the recommendations of this guidance probably go beyond the minimum required to avoid breaching the Regulations.

The relevant legal obligations:

A. The Consumer Protection from Unfair Trading Regulations 2008

2. The Consumer Protection from Unfair Trading Regulations (CPRs) 2008 implement the Unfair Commercial Practices Directive (UCPD) 2005. The CPRs prohibit traders from engaging in unfair commercial practices which harm consumers' economic interests. In broad terms commercial practices are acts or omissions by a trader directly connected to the supply of products to consumers. Price indications are one form of commercial practice.

3. The CPRs are principles-based legislation which will operate flexibly to catch unfair practices. At their heart is a general prohibition on the use of unfair commercial practices. This is supplemented with more detailed rules on misleading (by act and omission) and on aggressive practices where this would cause, or be likely to cause, the consumer to take a different transactional decision; and by Schedule 1 which sets out 31 practices which are prohibited under all circumstances.

In particular,

- regulation 5(4)(g) of the CPRs prohibits traders from misleading consumers about the price of a product, or the manner in which the price is calculated,
- regulation 5(4)(h) prohibits traders from misleading consumers as to the existence of a specific price advantage, and
- regulations 6(4)(d) and (e) prohibit the omission, in any case of an invitation to purchase, of certain matters related to price, unless these are already apparent from the context,

where these actions or omissions would cause, or be likely to cause, the consumer to take a different transactional decision. In many cases, a different transactional decision is likely to mean whether or not to buy a product, but it could include other decisions taken about transactions. It should also be noted that the practices prohibited by Schedule 1 include bait advertising, or bait and switch, or describing a product as “free” if the consumer has to pay anything other than the unavoidable cost of responding to the commercial practice and collecting or paying for delivery of the item.

4. Specific guidance on these regulations has been produced by the DTI¹ and OFT². In general, it should be noted that the context of the transaction will be important; and, in relation to any comparisons which may be made, the type of product to which the comparison relates will be important.

5. The CPRs have repealed Part III of the Consumer Protection Act 1987 (CPA), under which a Code of Practice for Traders on Price Indications was originally approved in 1988. Repealing Part III of the CPA automatically removes the statutory effect of that Code. However, the DTI’s consultation on how to implement the UCPD showed that traders would nevertheless continue to find it useful to have practical guidance on good practice in the area of price indications.

¹ DTI consultation on the draft Consumer Protection from Unfair Trading Regulations 2007 – May 2007 (URN 07/1047)

² OFT consultation on the draft guidance on the UK implementation of the Unfair Commercial Practices Directive 2005 – May 2007 OFT931

6. This document aims to provide such guidance, but as noted above, adherence to its recommendations will not of itself mean that a price indication will not breach those Regulations. The substantive requirements which are to be complied with remain the general prohibition on unfair commercial practices in regulation 3 of the CPRs, the prohibitions on misleading actions and omissions in regulations 5 and 6 and the prohibition on specific unfair commercial practices in Schedule 1. Their interpretation in any case of dispute is a matter for the courts. If you are in doubt as to whether any price indication you give complies with these requirements you should seek legal advice.

B: Other legislation

7. There are other pieces of UK legislation governing specific price indications, for example the *Consumer Protection (Distance Selling) Regulations 2000*³, *Consumer Credit Act 1974*⁴, *Price Marking Order 2004*⁵ and specific regulations that deal with price indications of exchange rates in Bureaux de Change - the *Price Indications (Bureaux de Change) (No 2) Regulations 1992*⁶, and you should ensure where relevant that your price indications comply with their requirements.

8. The Business Protection from Misleading Marketing Regulations 2007 (“BPRs”) covers misleading price indications given by traders to other traders. The BPRs also contain specific provision as to the conditions in which comparative advertising is permitted. Comparative advertising is advertising which identifies a competitor or his goods and services.

9. Where traders make use of advertisements they should also have regard to the relevant rules governing misleading advertising. Further information on these rules is available from the Advertising Standards Authority – www.asa.org.uk.

³ SI 2000/2334

⁴ 1974 c39

⁵ SI 2004/102

⁶ SI 1992/737

10. Your local authority trading standards service, or your Home Authority, will be pleased to advise you or direct you to relevant sources of information on the regulations that are applicable to your particular business. You can contact them on www.tradingstandards.gov.uk, or be directed to them via Consumer Direct on 08454 04 05 06.

11. Legislation may also be accessed at the website of the Office of Public Sector Information (OPSI) – www.opsi.gov.uk.

Definitions

Words and expressions used in these guidelines are explained below.

Consumer	means any individual who in relation to a commercial practice is acting for purposes which are outside his business
Distance contract	means any contract concerning products concluded between a trader and a consumer by any means, where there is no face-to-face contact between the trader and consumer. For instance, the Internet, text messaging, phone calls, faxing, interactive TV or mail order – via catalogues, mail order advertising in newspapers or magazines.
Outlet	Includes any place and any stall, vehicle, ship or aircraft and any means through which a distance contract may be concluded (including a website) at which goods, services, accommodation or facilities are offered to consumers.
Price	means the total amount the consumer will have to pay to get the goods, services, accommodation or facilities or any method which has been or will be used to calculate that amount.
Price comparison	Means any indication given to consumers that the price at which something is offered to consumers is less than or equal to some other price.
Product	means any goods or services and includes immovable property, rights and obligations

Trader	means any person who is acting for purposes relating to his business and anyone acting in the name of or on behalf of a trader.
Transactional Decision	means any decision taken by a consumer whether to act or to refrain from acting concerning – (a) whether, how and on what terms to purchase, make payment in whole or part for, retain or dispose of a product; or (b) whether, how and on what terms to exercise a contractual right in relation to a product.

Part 1: Price comparisons

1.1 Price comparisons generally

1.1.1 The Consumer Protection from Unfair Trading Regulations 2008 (CPRs) prohibit traders from giving false or misleading information about price or the manner of calculation of the price for a product, where this causes or is likely to cause the average consumer to take a transactional decision he would not otherwise have taken. If you choose to make price comparisons, you should therefore be able to justify them, and to show that any claims you make are accurate and valid – in particular, that any price advantage claimed is real. Further recommendations on these matters are contained in Part 1 of this guidance.

1.1.2. In general you should compare like with like. This implies that the products should be the same, or very similar; and that the product used as a basis of comparison should have been on offer in the same outlet. Also, the basis of the price comparison should be reasonable in terms of time. What is reasonable will depend on the circumstances. But where the basis of the comparison is not set out explicitly;

(a) A price used as a basis for comparison should have been the most recent price available for 28 consecutive days or more (subject to para. 1.2.12 where a series of reductions is shown);

(b) The period of time for which the new (lower) price will be available should not be so long that the comparison becomes misleading. How long this will be will depend on all the circumstances. But as a general guideline, which could be applied to cases in which there are no specific circumstances which might mean that a longer period would not be misleading, it is suggested that the period of time for which the new (lower) price will be available should not

be more than that for which the old (higher) price was available (subject again to para 1.2.12); and

(c) Comparisons should not be made with prices last offered more than six months ago.

1.1.3 If your comparison is made on a basis which differs on any point from the recommendations of the previous paragraph, then you should make the basis of the comparison explicit, so far as it differs. For example, if the comparison is with a price last available more than six months ago, you could state when the previous price was last available. Or if the new price will be offered for a longer period than the previous price, you could set out the actual dates over which the previous price was offered. Any such explanation should be clear, and easily accessible to the consumer: it should be unambiguous, easily identifiable and (except where this is impractical, for instance, in distance contracts that are concluded orally), easily legible by the consumer. It should set out positively what comparison is being made, rather than vague negative disclaimers (e.g., "price compared may not have been on offer for 28 consecutive days"). Section 1.2 provides further information on comparisons with the trader's own previous price.

1.1.4 You should make the meaning of any price comparison clear to the consumer. You should not leave consumers to guess whether or not a price comparison is being made. If no price comparison is intended, you should avoid words or phrases which, in their normal everyday use and in the context in which they are used, are likely to give consumers the impression that a price comparison *is* being made. If you make a price comparison then the previous higher price as well as the actual price you intend to charge for the product (goods, services, accommodation or facilities) are likely to be material information that the consumer needs. If you make statements like "sale price £5" or "reduced to £39" you should quote the previous higher price to which you refer. You should not make a comparison with a price based on a different method of payment unless an unambiguous, easily identifiable and clearly legible explanation of what the previous price referred to is given.

1.1.5 You should make clear what sort of price the higher price is. Comparisons described by words like "regular price", "usual price" or "normal price" which do not say whose regular, usual or normal price it is (for example "our normal price") should not be used. You should avoid using descriptions like "reduced from" and crossed out higher prices which do not refer to your own previous price. In general terms, words used other than with their normal everyday meanings should be avoided.

1.1.6 If you use acronyms or abbreviations to describe the higher price in a comparison you should explain clearly what they mean. Acronyms which are commonly understood, for example the initials "RRP" to describe a recommended retail price or the abbreviation "man. rec. price" to describe a manufacturer's recommended price may not need further explanation (see section 1.6). You should not assume that any acronym other than RRP is commonly understood by consumers.

1.1.7 The following parts of the guidance (sections 1.2 to 1.6) give advice on particular types of price comparison.

1.2 Comparisons with the trader's own previous price

General

1.2.1. A comparison with your own previous price should in general be with your immediately previous price for the product. If the comparison is with an earlier price, then you should make the basis of the comparison explicit (see para. 1.1.3, or in the case of a series of reductions, para. 1.2.12). And if you have offered the product at a lower price for any significant period in the interval (lower, that is, than the price at which you now intend to sell it), this should be stated. What might constitute a significant period will depend on all the circumstances, but a single period not exceeding a week in a six-month interval, or two or three periods of a weekend each in a six month interval, would be unlikely to be significant.

1.2.2 In any comparison between your present selling price and the last selling price at which the product was offered, you should state the previous price as well as the new lower price.

1.2.3 A comparison with your own previous price risks being misleading if the previous price is not one that has applied for a reasonable time in similar circumstances – see para. 1.1.2. In some circumstances however shorter periods may be reasonable – for example in relation to perishable goods or where there are a series of reductions; see paragraphs 1.2.9 and 1.2.12 below:

1.2.4 Even if a price used for comparisons has been offered for a reasonable period of time, the comparison may still be misleading. For example, if the product was not actually available for supply for a substantial part of that period. Another example would be if the product was made available at a different price between the period during which the original price applies and when the reduced price is first offered. (Bespoke products may be considered as available for supply if available to specific order.)

1.2.5 In any such case, you should ensure that you give a clear and positive explanation of the period for which, and the circumstances in which, the comparison price applied - see para 1.1.3.

1.2.6 A previous price used as a reference price to make a price comparison should be a *genuine* retail price. A genuine reference price has a number of facets to it which may include the following:

- (i) you honestly believe that you could sell a significant number of the goods at the reference price;
- (ii) a significant quantity of the goods are placed on sale at the reference price; and
- (iii) the goods are offered for sale at the higher price for a period at least sufficient to be a genuine offer of sale to the section of the public likely to be interested in purchasing such goods, that is, sufficient time for knowledge of the availability of the goods to be acquired by that section of the public, and sufficient time for them to view the goods, make up their minds whether to purchase them, and, if so, to complete the purchase of them.

1.2.7 In determining whether a belief was honestly held that goods could be sold at the higher price in significant numbers, the reasonableness of the belief is a factor that is likely to be taken into consideration. For example a reference price which is not comparable to prices offered by competitors or at which no or relatively few items are sold may indicate that you did not honestly believe that the goods could be sold at that price in significant numbers.

1.2.8 'Significant quantity' and 'sufficient time' are not defined in the black letter of the law. This is to allow retailers, regulators and the courts a measure of flexibility to apply common sense in judging whether or not the law has been complied with.

Food, drink and perishable goods

1.2.9 For any item of food or drink that is reduced for quick sale because it is close to its 'Use by date' or is close to or has already passed its 'Best before' date, a comparison with a previous price which has not applied for 28 consecutive days may nevertheless be reasonable. However, unless the basis of the comparison is made explicit, the comparison should be with the last price at which the product was on sale in the same outlet. This also applies to similar reductions on non-food items if they have a short shelf-life. What is a short shelf life depends of the circumstances but is likely to be less than 6 weeks.

Distance contracts

1.2.10 Where products are sold only through distance contracts (i.e., with no face-to-face contact between the trader and consumer), you should avoid making a comparison with a previous price which is not your own last price. If you sell the same products for different prices in different types of outlets (for example, by charging a different price in your High Street store compared to a direct sale from your website), then any comparison with a price offered by a different outlet should be clearly explained (see paragraph 1.1.3).

Factory outlets

1.2.11 Retailers located in factory outlet sites (e.g., retail sites where it is a condition of tenancy that a substantial majority of the goods must be sold at a discount), who have not sold the same goods at a higher price in the same store, should display an unambiguous, easily identifiable and clearly legible general notice describing the circumstances in which the goods had been sold at a higher price, for example that similar products were sold overseas at £x and/or were available in the UK at £x.

Making a series of reductions

1.2.12 If you advertise a price reduction and then want to reduce the price further during the same sale or special offer period, the intervening price (or prices) may have applied for a shorter time than that which would otherwise be considered reasonable in relation to the original price. In these circumstances:

- (a) the highest price in the series should have applied for a reasonable time and in similar circumstances (see paragraph 1.1.2 above);
- (b) you should show the highest price, the intervening price(s); and
- (c) the current selling price.

Alternatively, you should provide a clear explanation of the basis of the comparison (see paragraph 1.1.3).

Comparisons with out-of-season prices

1.2.13 Where price comparisons are made for items that are particularly associated with special times of the year (e.g. turkeys, Christmas decorations, Valentine's Day, Easter eggs, etc.), particular care should be taken to avoid misleading.

Comparisons with out-of-season prices have a significant potential to mislead since there will inevitably be lower sales levels at these times.

1.3 Introductory offers, after-sale or after-promotion prices

Introductory Offers

1.3.1 You should not call a promotion an 'introductory offer' in circumstances where you do not intend to offer the same product for sale at a higher price at the same outlet after the offer period is over.

1.3.2 You should not allow an offer to run on so long that it becomes misleading to describe it as an 'introductory' or other 'special offer'. What is a reasonable period will depend on the circumstances (but, depending on the shelf-life of the product, it is likely to be a matter of weeks, not months). In general, you should state the date the offer will end and keep to it. If you then extend the offer period, make it clear to the consumer that you have done so.

Quoting a future price

1.3.3 You should not indicate an after-sale or after-promotion price if you do not intend to continue to offer identical products at that price for a reasonable time. What is reasonable will depend on the circumstances. In general terms a period of at least **28 consecutive** days in the 3 months after the end of the offer period or after the offer stocks run out may in many circumstances be reasonable. (See section 1.2 for guidance on comparisons with the trader's own previous price.)

1.3.4 If you decide to quote a future price, you should explain what you mean in full. The use of acronyms should be avoided as they do not clearly convey information that consumers need to know. The description should be clearly and prominently displayed, with the price indication.

1.4 Comparisons with prices related to different circumstances

1.4.1 Comparisons should be fair and reasonable. You should compare like with like or with very similar products in terms of quality, composition and description. If there is a difference, then an unambiguous, easily identifiable and clearly legible explanation of the difference(s) should be given. This section covers comparisons with prices:

- (a) for different quantities (for example "15p each, 4 for 50p");
- (b) for goods in a different condition (for example "seconds £20, when perfect £30");
- (c) for a different availability (for example "price £50, price when ordered specially £60");
- (d) for goods in a different state (for example "price in kit form £50, price ready-assembled £70"); or
- (e) for special groups of people (for example "senior citizens' price £2.50, others £5").

General

1.4.2 If you make comparisons with prices related to different circumstances the product should be available in the different quantity, conditions etc at the price you quote. You should make clear to consumers the different circumstances which apply, and show them prominently with the price indication. Use of any acronym which may not be commonly understood should be explained - see para. 1.1.6.

"When perfect" comparisons

1.4.3 If you do not have the perfect goods on sale in the same outlet:

- (a) have regard to section 1.2 if the "when perfect" price is your own previous price for the goods;
- (b) have regard to section 1.5 if the "when perfect" price is another trader's price; or
- (c) have regard to section 1.6 if the "when perfect" price is one recommended by the manufacturer or supplier.

Goods in a different state

1.4.4 Comparisons with goods in a different state may mislead. The risk of misleading should be less where:

- (a) a reasonable proportion (say a third by quantity) of your stock of those goods is readily available for sale to consumers in that different state (for example, ready assembled) at the quoted price and from the outlet where the price comparison is made; or
- (b) another trader is offering those goods in that state at the quoted price and you have regard to section 1.5.

1.4.5 The price of a collection of items should only be compared with the previous price of the same collection of items unless any differences are explained in an unambiguous, easily identifiable and clearly legible way. For example, if you compare the price of a complete fitted kitchen with the price of the items when sold separately you should explain this difference to the consumer in an unambiguous, easily identifiable and clearly legible way.

Prices for special groups of people

1.4.6 If you want to compare different prices which you charge to different groups of people (for example one price for existing customers and another for new customers, or one price for people who are members of a named organisation (other than the trader) and another for those who are not), you should not then use words like "our normal" or "our regular" to describe the higher price. In circumstances where it does not apply to a substantial proportion of your customers. You will also need to bear in mind that if the communication is targeted at a particular group of consumers, or if the consumers are vulnerable in a way that you could be expected to foresee, then what you are doing could be assessed from the perspective of that group, when assessing whether the communication complies with the CPRs.

1.5 Comparisons with another trader's prices

1.5.1 Comparisons should not be misleading by giving false or misleading information or omitting material information. You should:

(a) ensure that the other trader's price which you quote is accurate and up-to-date – if the comparison becomes inaccurate after it is quoted, it should be removed or amended as soon as reasonably practicable;

(b) give the name of the other trader clearly and prominently, with the price comparison;

(c) identify the circumstance where the other trader's price applies and the date it applied;

(d) ensure that the other trader's price to which you quote applies to the same product - or to a substantially similar product and you state any differences clearly (see paragraph 1.4); and

(e) compare prices for goods supplied in the same quantity and the same state or, if that is not possible, state the differences clearly.

1.5.2 Comparisons should generally be made with prices of outlets in the same locality unless it can be shown that it makes no difference because of a national pricing policy.

1.5.3 You should not make statements like "if you can buy this product elsewhere for less, we will refund the difference" about your "own brand" products which other traders do not stock, unless your offer will also apply to other traders' similar or equivalent goods. If there are any conditions attached to the offer (for example it only applies to goods on sale in the same town or excluding Internet sales) you should show the conditions clearly and prominently, with the product statement.

1.5.4 You should not make "lowest price" claims which are not backed up by suitable evidence to show that the trader is offering a lower price than competitors. Offering a "price promise", for example to beat a competitor's cheaper price if informed of that price by a customer may not prevent a "lowest price" claim being misleading if the latter cannot be supported. If the offer is limited to a price matching promise you should make it clear that this is the case.

1.6 Comparisons with "Recommended Retail Price" or similar

1.6.1 Use of initials or abbreviations to describe the higher price in a comparison should be avoided except for:

(a) the initials "RRP" to describe a recommended retail price; or

(b) the abbreviation "man. rec. price" to describe a manufacturer's recommended price.

1.6.2 You should write all other descriptions out in full and show them clearly and prominently with the price indication.

1.6.3 You should not use a recommended retail price, or similar, as a basis of comparison which is not genuine, or differs significantly from the price at which the product is generally sold.

1.6.4 You should not use an RRP or similar for goods that only you supply.

1.7 Pre-printed prices

1.7.1 Reductions stated on the manufacturer's packaging (for example "flash packs" such as "10p off RRP") should be passed on to consumers.

1.7.2 You are making a price comparison if goods have a clearly visible price already printed on the packaging which is higher than the price you will charge for them. Such pre-printed prices are, in effect, recommended prices (except for retailers' own label goods) and you should have regard to section 1.6.

1.8 References to value or worth

1.8.1 You should not compare your prices with an amount described only as "worth" or "value".

1.8.2 You should not present general advertising slogans, which refer to "value" or "worth", in a way which is likely to be seen by consumers as a price comparison.

1.9 Sales or special events

1.9.1 If you have bought in items especially for a sale, and you make this clear to the consumer; you should not quote a higher price when indicating that they are special purchases. Otherwise, your price indications for individual items in the sale

which are reduced should have regard to section 1.1 and whichever of sections 1.2 to 1.6 of this guidance applies to the type of comparison you are making.

1.9.2 If you just have a general notice saying, for example, that all products are at "half marked price", but the marked price on the individual items is not your own previous price this should be made clear in the general notice.

1.9.3 General notices saying, for example "half price sale" or "up to 50% off" should not be used unless the maximum reduction quoted applies to a reasonable proportion of the range of products on offer at the commencement of the sale. What is reasonable will depend on the circumstances.

1.9.4 If a sale period is extended, so that any price comparisons no longer accord with the recommendation at para. 1.1.2(b) of this guidance, the new circumstances should be made explicit to the customer in accordance with the recommendations of para. 1.1.3.

1.10 Free offers and similar promotions

1.10.1 You should make clear to consumers, at the time of the offer for sale, exactly what they will have to buy to get the "free" or "reduced price" offer. For example if any sort of direct payment is required such as postal or delivery charges, you should make this clear.

1.10.2 If you give any indication of the monetary value of the offer, and that sum is not your own present price for the product, you should have regard to whichever of sections 1.2 to 1.6 covers the type of price it is.

1.10.3 If there are any conditions attached to the offer, you should give at least the main points of those conditions with the price indication and make clear to consumers where, before they are committed to buy, they can get full details of the conditions.

1.10.4 You should not claim that an offer is free if:

(a) you have imposed additional charges that you would not normally make;

(b) you have inflated the price of any product the consumer must buy or the incidental charges (for example, postage or premium rate telephone charges) the consumer must pay to get the "free" or "reduced price"; or

(c) you will reduce the price to consumers who do not take it up.

1.10.5 Where your offer is a package deal, it may be misleading to describe any element of it as "free" if it is not in practice available separately.

Part 2: Actual price to the consumer

2.1 Indicating two different prices

2.1.1 The CPRs prohibit traders from giving misleading information about prices which could include indicating a price for goods or services which is lower than the one that actually applies where this would cause, or be likely to cause, the consumer to take an adverse transactional decision. In many cases, an adverse transactional decision is likely to mean whether or not to buy a product, but it could include other decisions taken about transactions.

2.1.2 You should not therefore show one price in an advertisement, website, window display, shelf marking or on the item itself, and then charge a higher price at the point of sale or checkout. In addition, specific regulations apply to particular types of sales and ways of selling, for example retail sales (including the Internet), distance contracts and package travel. Your local authority trading standards service, or your Home Authority, will be pleased to advise you on the current legislation that is relevant to your business and of any good practice guidance which is also relevant.

2.2 Incomplete information and non-optional extras

2.2.1 A commercial communication displaying a price, along with an indication of the characteristics of a product which it thereby enables the consumer to make a purchase, will amount to an 'invitation to purchase' as defined in the CPRs. Under the CPRs, certain information is regarded as material, and must, if not already apparent from the context, be provided in the invitation to purchase. This includes the main characteristics of a product, the identity of the trader and full information about the price. The object is to ensure that the consumer should always be fully aware of the total cost in such communications.

2.2.2 In situations where you are making an invitation to purchase but are unable to actually give the consumer the full price including taxes because it cannot reasonably be calculated in advance, you must give them information on the manner in which that price is calculated.

2.2.3 Some examples of how to provide actual prices for consumers (whether in an invitation to purchase or in other communications in particular circumstances) are set out below.

Prices related to particular sizes, etc.

2.2.4 Where the price you are quoting for products only applies to a limited number of, say, orders, sizes or colours, you should make this clear in your price indication in an unambiguous, easily identifiable and clearly legible way (for example "available in other colours or sizes at additional cost").

Prices relating to differing forms of products

2.2.5 If the price you are quoting for particular products does not apply to the products in the form in which they are displayed or advertised, you should make this clear in your price indication. For example, advertisements for self-assembly furniture and the like should make it clear that the price refers to a kit of parts.

Postage, packing and delivery charges

2.2.6 If you sell by distance contract, you should make clear any additional charges for postage, import duties, packaging or delivery, so that consumers are fully aware of them before they commit themselves to buy. Where you cannot determine these charges in advance, you should indicate clearly how they will be calculated (for example "Royal Mail rates apply"), or specify the place where the information is given.

2.2.7 If you sell goods from an outlet and offer a delivery service for certain items, you should make it clear whether there are any separate delivery charges (for example for delivery outside a particular area) and what those charges are, before the consumer is committed to buying.

Pricing in different currencies

2.2.8 Prices in different currencies must not be misleading. You should not offer products that are dual priced with sterling and a foreign currency where you will only accept sterling and the sterling price is higher. You should make it clear that you only accept sterling, for instance, by displaying a notice to that effect. (Comparisons with prices in other currencies may however be made so long as the comparison is genuine and it is made clear that it is not an invitation to buy in the other currency.)

Valued Added Tax (VAT)

(i) Price indications to consumers

2.2.9 All price indications you give to consumers, by whatever means, should include VAT. This total price must be displayed prominently so that consumers can see them.

(ii) Price indications to business customers

2.2.10 Prices may be indicated exclusive of VAT at an outlet or through advertisements from which all of your business is with business customers. If you also conduct business at that outlet or through these advertisements with consumers, however, you should make clear that the prices exclude VAT and you should:

(a) display VAT inclusive prices with equal prominence, or;

(b) display prominent statements that the quoted prices exclude VAT and state the appropriate rate. It should be noted that VAT inclusive prices for all goods offered by traders to consumers are required by the Price Marking

Order 2004⁷ (further information can be obtained from your local authority trading standards service or at these websites:

<http://www.berr.gov.uk/files/file8175.pdf>,

<http://www.tradingstandards.gov.uk/>

(iii) Professional fees

2.2.11 Where you indicate a price (including an estimate) for a professional fee, you should make clear what it covers. The price should generally include VAT. In cases where the fee is based on an as-yet-unknown sum of money (for example, the sale price of a house), you should either:

(a) quote a fee which includes VAT; or

(b) if this is difficult to calculate, make it clear that in addition to your fee the consumer would have to pay VAT at the current rate (for example "fee of 1.5% of purchase price, plus VAT at 17.5%).

2.2.12 Make sure that whichever method you choose is used for both the estimate and final bill.

(iv) Building work

2.2.13 In estimates for building work, you should either include VAT in the price indication or, if this is difficult to calculate, indicate with equal prominence the amount or rate of VAT payable in addition to your basic figure. If you give a separate amount for VAT, make it clear that if any provisional sums in estimates vary then the amount of VAT payable would also vary.

Service, cover and minimum charges in hotels, restaurants and similar establishments

2.2.14 You should not include suggested optional sums, whether for service or any other item, in the bill presented to the customer. If your customers in hotels,

⁷ SI 2004/102

restaurants or similar places must pay any non-optional extra charge, for example a "service charge":

(a) you should incorporate the charge within fully inclusive prices wherever practicable; and

(b) you should display the fact clearly on any price list or priced menu, whether displayed inside or outside (for example by using statements like "all prices include service").

2.2.15 It may not be practical to include some non-optional extra charges in a quoted price; for example if you make a flat charge per person or per table in a restaurant (often referred to as a "cover charge") or a minimum charge. In such cases the charge should be shown as prominently as other prices on any list or menu, whether displayed inside or outside the establishment.

Holiday and travel prices

2.2.16 If you offer a variety of prices to give consumers a choice (for example, paying more or less for a holiday depending on the time of year or the standard of accommodation), you should make it clear in your brochure or website, or in any other price indication, what the basic price is and what it covers. You should also give details of any optional additional charges and what those charges cover, or of the place where this information can be found, clearly and close to the basic price.

2.2.17 You should include any non-optional extra charges which are for fixed amounts and should not show them as additions, unless they are only payable by some consumers (e.g., single room supplements). Where such extra charges may apply, you should also specify, near to the details of the basic price, either what the amounts are and the circumstances in which they are payable, or where in the brochure etc the information is given.

2.2.18 If you reserve the right to increase prices after consumers have made their booking you should state this clearly with all indications of prices, and include prominently in your brochure full information on the circumstances in which a surcharge is payable and how it is to be calculated. There are specific rules limiting rights to increase package holiday prices in the Package Travel, Package Holidays and Package Tours Regulations 1992⁸.

Sale of entertainment tickets

2.2.19 If you offer for sale or re-sale tickets for entertainment and other similar events that are subject to a restricted view, you should inform the consumer. Otherwise they are likely to be engaging in a misleading omission for the purpose of Regulation 6 of the Unfair Commercial Practices Directive (UCPD). The information that the seats are subject to a restricted view is material information that the average consumer would need in order to take an informed transactional decision (that is, to decide whether or not to buy the tickets at the offered price), and its omission is highly likely to be unfair.

2.2.20 If you sell or resell tickets at a price higher than the face value, you should also make clear in any price indication what the face value is.

Call-out charges

2.2.21 “Free call out” claims should only be made when there will be **no** charge to the consumer unless remedial work is undertaken with their agreement. You should not make such claims if consumers are to be charged an initial diagnostic fee. Where you intend to charge for diagnostic work, you should ensure that the consumer is made aware of this charge before the diagnostic work is carried out.

2.2.22 If you make a minimum call-out charge or other flat-rate charge (for example, for plumbing, gas or electrical appliance repairs etc carried out in consumers' homes), you should ensure that the consumer is made aware of the charge and

⁸ SI 1992/3288

whether the actual price may be higher dependant on certain circumstances (for example if work takes longer than a specific time),

Credit facilities

2.2.23 Price indications about consumer credit should also comply with the Consumer Credit Act 1974 and the regulations made there under governing the form and content of advertisements.

Insurance

2.2.24 Where actual premium rates for a particular consumer or the availability of insurance cover depend on an individual assessment, this should be made clear when any indication of the premium or the method of determining it is given to consumers.

Part 3: Price indications which become misleading after they have been given

3.1 General

3.1.1 Statements about price can become misleading even if they were accurate at the time they were given. Care should be taken to ensure that where there is an invitation to purchase, the price stated is the full purchase price. The following paragraphs recommend appropriate action in some particular circumstances.

3.2 Newspaper and magazine advertisements

3.2.1 Unless the advertisement says otherwise, the price indication should apply for a reasonable period. What is reasonable depends on the circumstances, but as a general guide, a period of at least 7 days or until the next issue of the newspaper or magazine in which the advertisement was published, whichever is longer, ought in many cases to be reasonable.

3.3 Mail order advertisements, catalogues, leaflets, websites and similar advertising

3.3.1 Paragraph 3.2.1 above also applies to the time for which these price indications should be made. Should a price indication become misleading within the period set out in paragraph 3.2.1, make sure the correct price indication is given to anyone who orders the product to which it relates. You should do so before the consumer is committed to buying the product.

3.4 Selling through agents

Holiday brochures and travel agents

3.4.1 Surcharges are covered in paragraph 2.2.17. Should a price indication become misleading for any other reason, tour operators who sell direct to consumers should have regard to paragraph 3.3.1 above, and tour operators who sell through travel agents should have regard to paragraphs 3.4.2 and 3.4.3 below.

3.4.2 Should a price indication become misleading while your brochure is still current, you should make this clear to the travel agents to whom you distributed the brochure.

3.4.3 In the circumstances set out in paragraph 3.4.2, travel agents should ensure that the correct price indication is made clear to consumers before they make a booking. This may be done, for example, by including a prominent insert of updated prices within the magazine or a sticker over the incorrect price. It would be too late to wait until the consumer made enquiries with staff as the consumer may simply take a brochure away with them to make price comparisons in their own time.

3.4.4 Where you promote last minute price offers by advertisements/cards in window displays or on websites, you should keep the information up to date. When an offer is no longer available, you should remove it from the display or website.

Insurance and independent intermediaries

3.4.5 Insurers who sell their products through agents or independent intermediaries should take all reasonable steps to ensure that all such agents who are known to hold information on the insurer's premium rates and terms of the cover provided are told clearly of any changes in those rates or terms.

3.4.6 Agents, independent intermediaries and providers of quotation systems should ensure that they act on changes notified to them by an insurer and should keep them up to date.

3.5 Changes in the rate of value added tax

3.5.1 Should your price indications become misleading because of a change in the general rate of VAT, or other taxes paid at the point of sale, you should make the correct price indication clear to consumers. (On a temporary basis, general notices should be acceptable until individual items can be repriced.)

4 Sale of homes

4.1 The Unfair Commercial Practices Directive applies to immoveable property, including residential property to be used as a private dwelling (“homes”).

4.2 In this context the term “trader” covers not only a business vendor, such as a developer, but also an estate agent acting on behalf of such a vendor including private sellers. For provisions applicable to commercial property you should consult your local Trading Standards Service or Home Authority.

4.3 You should follow the relevant provision of Part 1 of the guidance if:

(a) you want to make a comparison between the price at which you offer a home for sale and any other price; or

(b) you offer an inclusive price for a home which also covers such terms as furnishings, domestic appliances and insurance and you compare their value with, for example, High Street prices for similar items.

4.4 Part 2 of the guidance gives details of the provisions you should follow if:

(a) the new houses you are selling, or any goods or services which apply to them, are only available in limited numbers or ranges;

(b) the sale price you give does not apply to the houses as displayed; or

(c) there are additional non-optional charges payable.